

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
Central Valley Project, California

CONTRACT BETWEEN THE UNITED STATES
AND
PORTERVILLE IRRIGATION DISTRICT
PROVIDING FOR PROJECT WATER SERVICE
FROM FRIANT DIVISION AND
FOR FACILITIES REPAYMENT

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1 UNITED STATES
2 DEPARTMENT OF THE INTERIOR
3 BUREAU OF RECLAMATION
4 Central Valley Project, California

5 CONTRACT BETWEEN THE UNITED STATES
6 AND
7 PORTERVILLE IRRIGATION DISTRICT
8 PROVIDING FOR PROJECT WATER SERVICE
9 FROM FRIANT DIVISION AND
10 FACILITIES REPAYMENT

11 THIS CONTRACT, made this _____ day of _____, 2010, is entered into
12 pursuant to the Act of June 17, 1902, (32 Stat. 388), and acts amendatory or supplementary thereto,
13 including but not limited to: the Act of August 26, 1937 (50 Stat. 844), as amended and
14 supplemented, August 4, 1939 (53 Stat. 1187), as amended and supplemented, July 2, 1956 (70 Stat.
15 483), June 21, 1963 (77 Stat. 68), October 12, 1982 (96 Stat. 1262), October 27, 1986 (100 Stat.
16 3050), as amended, Title XXXIV of the Act of October 30, 1992 (106 Stat. 4706), and Title X,
17 Subtitle A, of the Act of March 30, 2009 (123 Stat. 1349), also referred to as the San Joaquin River
18 Restoration Settlement Act hereinafter referred to as SJRRSA, all collectively hereinafter referred to
19 as Federal Reclamation law, between THE UNITED STATES OF AMERICA, hereinafter referred to
20 as the United States and PORTERVILLE IRRIGATION DISTRICT, hereinafter referred to as the
21 Contractor, a public agency of the State of California, duly organized, existing, and acting pursuant to
22 the laws thereof, with its principal place of business in California;

23 WITNESSETH, That

EXPLANATORY RECITALS

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[1st] WHEREAS, the United States has constructed and is operating the Central Valley Project, California, for diversion, storage, carriage, distribution and beneficial use, for flood control, irrigation, municipal, domestic, industrial, fish and wildlife mitigation, protection and restoration, generation and distribution of electric energy, salinity control, navigation and other beneficial uses, of waters of the Sacramento River, the American River, the Trinity River, and the San Joaquin River and their tributaries; and

[2nd] WHEREAS, the United States constructed Friant Dam (thereby creating Millerton Lake) and the Friant-Kern and Madera Canals, hereinafter collectively referred to as the Friant Division Facilities, which will be used in part for the furnishing of water to the Contractor pursuant to the terms of this Contract; and

[3rd] WHEREAS, the United States and the Contractor entered into Contract Number I75r-4309 as amended, which established terms for the delivery to the Contractor of Project Water from the Friant Division from January 28, 1952 through February 29, 1992; and

[4th] WHEREAS, the Contractor and the United States have entered into a renewal contract and, pursuant to subsection 3404(c)(1) of the Central Valley Project Improvement Act (CVPIA), subsequently entered into an interim renewal contract(s), identified as Contract Number (s) I75r-4309R and I75r-4309-IR1, which provided for the continued water service to Contractor from March 1, 1992 through February 28, 2001, and subsequently entered into a long-term renewal contract identified as Contract Number I75r-4309-LTR1, which provided for continued water service

44 to Contractor through February 28, 2026, which was amended January 18, 2007, and is herein
45 referred to as the "Existing Contract"; and

46 [5th] WHEREAS, pursuant to Section 8 of the Act of June 17, 1902 (32 Stat. 388), the
47 United States has acquired water rights and other rights to the flows of the San Joaquin River,
48 including without limitation the permits issued as the result of Decision 935 by the California State
49 Water Resource Control Board and the contracts described in subdivision (n) of Article 3 of this
50 Contract, pursuant to which the Contracting Officer develops, diverts, stores and delivers Project
51 Water stored or flowing through Millerton Lake in accordance with State and Federal law for the
52 benefit of Project Contractors in the Friant Division and for other specified Project purposes; and

53 [6th] WHEREAS, the water supplied to the Contractor pursuant to this Contract is Project
54 Water developed through the exercise of the rights described in the fifth (5th) Explanatory Recital of
55 this Contract; and

56 [7th] WHEREAS, as a result of litigation entitled "Natural Resources Defense Council, et
57 al. v Kirk Rogers, et al." No. CIV-S-88-1658LLK/GGH, certain contractors from the Friant Division
58 entered into a Stipulation of Settlement dated September 13, 2006, (the "Settlement"), which
59 settlement prescribes a Restoration Goal and a Water Management Goal and which Settlement was
60 subsequently confirmed and implemented through the SJRRSA; and

61 [8th] WHEREAS, the SJRRSA authorizes and directs the Secretary to convert the Existing
62 Contract to a repayment contract under subsection (d) of Section 9 of the Act of August 4, 1939, no
63 later than December 31, 2010, and further directs that such contract shall require the accelerated
64 repayment of the Contractors' allocated share of construction costs, either as a lump sum payment by

65 January 31, 2011 or in annual installments by January 31, 2014, which funds will in turn be made
66 available for implementation of the Settlement and SJRRSA, and which costs otherwise would have
67 been payable through annual water rates, with full repayment by 2030; and

68 [9th] WHEREAS, such repayment of costs will assist the United States with
69 implementation of actions required under the Settlement and the SJRRSA and provide the Contractor
70 the benefits provided in Section 10010 of the SJRRSA; and

71 [10th] WHEREAS, subsection (4) of Section 1 of the Act of July 2, 1956 (1956 Act) directs
72 the Secretary to provide that the other party to any contract entered into pursuant to subsection (d) of
73 Section 9 of the Act of August 4, 1939 (repayment contract) or pursuant to subsection (e) of Section 9
74 of the Act of August 4, 1939 (water service contract) shall “have the first right (to which the rights of
75 the holders of any other type of irrigation water contract shall be subordinate) to a stated share or
76 quantity of the project’s available water supply for beneficial use on the irrigable lands within the
77 boundaries of, or owned by, the party and a permanent right to such share or quantity upon
78 completion of payment of the amount assigned for ultimate return” by the contractor subject to
79 fulfillment of all obligations under the contract; and

80 [11th] WHEREAS, among other things, this Contract includes provisions granting the
81 Contractor the permanent right described in the tenth (10th) Explanatory Recital; and

82 [12th] WHEREAS, the Contractor has demonstrated to the satisfaction of the Contracting
83 Officer that the Contractor has utilized the Project Water supplies available to it for reasonable and
84 beneficial use and/or has demonstrated projected future demand for water use such that the

85 Contractor has the capability and expects to utilize fully for reasonable and beneficial use the quantity
86 of Project Water to be made available to it pursuant to this Contract; and

87 [13th] WHEREAS, water obtained from the Central Valley Project has been relied upon by
88 urban and agricultural areas within California for more than fifty (50) years and is considered by the
89 Contractor as an essential portion of its water supply; and

90 [14th] WHEREAS, the economies of regions within the Central Valley Project, including the
91 Contractor's, depend upon the continued availability of water, including water service from the
92 Central Valley Project; and

93 [15th] WHEREAS, the Secretary intends through coordination, cooperation, and partnerships
94 to pursue measures to improve water supply, water quality, and reliability of the Project for all
95 Project purposes; and

96 [16th] WHEREAS, the mutual goals of the United States and the Contractor include: to
97 provide for reliable Project Water supplies; to control costs of those supplies; to achieve repayment of
98 the Central Valley Project as required by law; to guard reasonably against Project Water shortages; to
99 achieve a reasonable balance among competing demands for use of Project Water; and to comply
100 with all applicable environmental statutes, all consistent with the legal obligations of the United
101 States relative to the Central Valley Project; and

102 [17th] WHEREAS, any time during the Year the Contracting Officer determines that a need
103 exists to evacuate water from Millerton Lake in order to prevent or minimize spill or to meet flood
104 control criteria (currently referred to as "uncontrolled season"), taking into consideration, among
105 other things, anticipated upstream reservoir operations and the most probable forecast of snowmelt

106 and runoff projections for the upper San Joaquin River, Friant Division Project Contractors utilize a
107 portion of their undependable Class 2 Water in their service areas to, among other things, assist in the
108 management and alleviation of groundwater overdraft in the Friant Division service area, provide
109 opportunities for restoration of the San Joaquin River below Friant Dam, minimize flooding along the
110 San Joaquin River, encourage optimal water management, and maximize the reasonable and
111 beneficial use of the water; and

112 [18th] WHEREAS, the parties desire and intend that this Contract not provide a disincentive
113 to the Friant Division Project Contractors continuing to carry out the beneficial activities set out in
114 the Explanatory Recital immediately above; and

115 [19th] WHEREAS, the United States has determined that the Contractor has fulfilled all of
116 its obligations under the Existing Contract.

117 NOW, THEREFORE, in consideration of the mutual and dependent covenants herein
118 contained, it is hereby mutually agreed by the parties hereto as follows:

119 DEFINITIONS

120 1. When used herein, unless otherwise distinctly expressed or manifestly incompatible
121 with the intent of the parties as expressed in this Contract, the term:

122 (a) “Additional Capital Obligation” shall mean any additional construction costs
123 or other capitalized costs incurred after the effective date of this Contract or not reflected in the
124 Existing Capital Obligation as provided in Section 10010(a)(3)(B) of the SJRRSA and any amounts
125 payable by Contractor as determined through the final adjustment described and required by Section
126 10010(b) of the SJRRSA;

127 (b) "Calendar Year" shall mean the period January 1 through December 31, both
128 dates inclusive;

129 (c) "Charges" shall mean the payments required by Federal Reclamation law in
130 addition to the Rates and Tiered Pricing Components specified in this Contract as determined
131 annually by the Contracting Officer pursuant to this Contract and consistent with the SJRRSA;

132 (d) "Class 1 Water" shall mean that supply of water stored in or flowing through
133 Millerton Lake which, subject to the contingencies hereinafter described in Articles 3, 12, and 13 of
134 this Contract, will be available for delivery from Millerton Lake and the Friant-Kern and Madera
135 Canals as a dependable water supply during each Year;

136 (e) "Class 2 Water" shall mean that supply of water which can be made available
137 subject to the contingencies hereinafter described in Articles 3, 12, and 13 of this Contract for
138 delivery from Millerton Lake and the Friant-Kern and Madera Canals in addition to the supply of
139 Class 1 Water. Because of its uncertainty as to availability and time of occurrence, such water will
140 be undependable in character and will be furnished only if, as, and when it can be made available as
141 determined by the Contracting Officer;

142 (f) "Condition of Shortage" shall mean a condition respecting the Project during
143 any Year such that the Contracting Officer is unable to deliver sufficient water to meet the Contract
144 Total;

145 (g) "Contracting Officer" shall mean the Secretary of the Interior's duly
146 authorized representative acting pursuant to this Contract or applicable Federal Reclamation law or
147 regulation;

148 (h) "Contract Total" shall mean the maximum amount of Class 1 Water plus the
149 maximum amount of Class 2 Water specified in subdivision (a) of Article 3 of this Contract and is the
150 stated share or quantity of the Project's available water supply to which the Contractor will have a
151 permanent right in accordance with the 1956 Act and the terms of this Contract, upon the Contractor's
152 complete payment of the Repayment Obligation, notwithstanding any Additional Capital Obligation
153 that may later be established, which right shall not be disturbed so long as the Contractor fulfills all of
154 its obligations under this Contract;

155 (i) "Contractor's Service Area" shall mean the area to which the Contractor is
156 permitted to provide Project Water under this Contract as described in Exhibit "A" attached hereto,
157 which may be modified from time to time in accordance with Article 36 of this Contract without
158 amendment of this Contract;

159 (j) "CVPIA" shall mean the Central Valley Project Improvement Act, Title
160 XXXIV of the Act of October 30, 1992 (106 Stat. 4706);

161 (k) "Eligible Lands" shall mean all lands to which Irrigation Water may be
162 delivered in accordance with Section 204 of the Reclamation Reform Act of October 12, 1982
163 (96 Stat. 1263), as amended, hereinafter referred to as RRA;

164 (l) "Excess Lands" shall mean all lands in excess of the limitations contained in
165 Section 204 of the RRA, other than those lands exempt from acreage limitation under Federal
166 Reclamation law;

167 (m) "Existing Capital Obligation" shall mean the remaining amount of construction
168 costs of the Contractor identified in the Central Valley Project Irrigation Water Rates and/or

169 Municipal and Industrial Water Rates, respectively, dated January 25, 2007, as adjusted to reflect
170 payments not reflected in such schedule, pursuant to Section 10010(a)(3)(A) of the SJRRSA. The
171 Contracting Officer has computed the Existing Capital Obligation in a manner consistent with the
172 SJRRSA and such amount is set forth in Exhibits “C-1” and “C-2”, incorporated herein by reference;

173 (n) “Financing Costs”, for purposes of computing the reduction of certain charges
174 as specified in subdivision (c) of Article 7 of this Contract, shall mean the difference between the net
175 present value of the Existing Capital Obligation discounted using the full Treasury rate and the
176 Existing Capital Obligation discounted using one-half the Treasury Rate, as set forth in Section
177 10010(d)(3) of the SJRRSA;

178 (o) “Full Cost Rate” shall mean that water rate described in Sections 205(a)(3) or
179 202(3) of the RRA, whichever is applicable;

180 (p) “Ineligible Lands” shall mean all lands to which Irrigation Water may not be
181 delivered in accordance with Section 204 of the RRA;

182 (q) “Irrigation Full Cost Water Rate” shall have the same meaning as “full cost” as
183 that term is used in Paragraph (3) of Section 202 of the RRA;

184 (r) “Irrigation Water” shall mean water made available from the Project that is
185 used primarily in the production of agricultural crops or livestock, including domestic use incidental
186 thereto, and watering of livestock. Irrigation water shall not include water used for the purposes such
187 as the watering of landscaping or pasture for animals (e.g., horses) which are kept for personal
188 enjoyment or water delivered to landholdings operated in units of less than five (5) acres unless the

189 Contractor establishes to the satisfaction of the Contracting Officer that the use of the water delivered
190 to any such landholding is a use described in this subdivision of this Article of this Contract;

191 (s) "Landholder" shall mean a party that directly or indirectly owns or leases
192 nonexempt land, as provided in 43 CFR 426.2;

193 (t) "Long Term Historic Average" shall mean the average of the final forecast of
194 Water Made Available to the Contractor pursuant to this Contract and the contracts referenced in the
195 third (3rd) and fourth (4th) Explanatory Recitals of this Contract;

196 (u) Omitted;

197 (v) "Municipal & Industrial (M&I) Full Cost Water Rate" shall mean the annual
198 rate, which, as determined by the Contracting Officer, shall amortize the expenditures for
199 construction allocable to Project M&I facilities in service, including, O&M deficits funded, less
200 payments, over such periods as may be required under Federal Reclamation law with interest
201 accruing from the dates such costs were first incurred plus the applicable rate for the O&M of such
202 Project facilities. Interest rates used in the calculation of the M&I Full Cost Rate shall comply with
203 the Interest Rate methodology contained in Section 202(3) (B) and (C) of the RRA;

204 (w) "Operation and Maintenance" or "O&M" shall mean normal and reasonable
205 care, control, operation, repair, replacement (other than Capital replacement), and maintenance of
206 Project facilities;

207 (x) "Operating Non-Federal Entity" shall mean the Friant Water Authority, or its
208 successor, a Non-Federal entity, which has the obligation to operate and maintain all or a portion of

209 the Friant Division Facilities pursuant to an agreement with the United States and which may have
210 funding obligations with respect thereto;

211 (y) “Other Water” shall mean water from the Project other than Irrigation Water as
212 described in subdivision (r) of this Article of this Contract, which is used for a purpose that is
213 considered to be an irrigation use pursuant to State law such as the watering of landscaping or pasture
214 for animals (e.g., horse) which are kept for the personal enjoyment. For purposes of this Contract,
215 Other Water shall be paid for at Rates and Charges identical to those established for M&I water
216 pursuant to the then-existing M&I Ratesetting Policy;

217 (z) “Project” shall mean the Central Valley Project owned by the United States
218 and managed by the Department of the Interior, Bureau of Reclamation;

219 (aa) “Project Contractors” shall mean all parties who have a long-term water
220 service contract or repayment contract for Project Water from the Project with the United States
221 pursuant to Federal Reclamation law;

222 (bb) “Project Water” shall mean all water that is developed, diverted, stored, or
223 delivered by the Secretary in accordance with the statutes authorizing the Project and in accordance
224 with the terms and conditions of water rights acquired pursuant to California law;

225 (cc) “Rates” shall mean the payments for O&M costs as determined annually by the
226 Contracting Officer in accordance with the then-existing applicable water ratesetting policies for the
227 Project, as described in subdivision (a) of Article 7 of this Contract and illustrated in Exhibit “B”,
228 attached hereto;

229 (dd) “Recovered Water Account” shall mean the program, as defined in the
230 Settlement, to make water available to all of the Friant Division Project Contractors who provide
231 water to meet interim flows or restoration flows for the purpose of reducing or avoiding the impact of
232 the interim flows and restoration flows on such contractors;

233 (ee) “Repayment Obligation”, as provided in subdivision (a)(2)(A) of Article 7 of
234 this Contract, shall be the Existing Capital Obligation, as defined herein, discounted by one-half of
235 the Treasury rate and computed consistent with the provisions of Section 10010(3)(A) of the
236 SJRRSA to be paid as either a lump sum payment by January 31, 2011 or in approximately equal
237 annual installments by January 31, 2014;

238 (ff) “Secretary” shall mean the Secretary of the Interior, a duly appointed
239 successor, or an authorized representative acting pursuant to any authority of the Secretary and
240 through any agency of the Department of the Interior;

241 (gg) “Settlement” shall mean the Stipulation of Settlement dated September 13,
242 2006, the Order Approving Stipulation of Settlement, and the Judgment and further orders issued by
243 the Court pursuant to the terms and conditions of the Settlement in Natural Resources Defense
244 Council, et al. v. Rodgers, et al., No. CIV-S-88-1658 LLJ/GGH;

245 (hh) “Tiered Pricing Component” shall be the incremental amount to be paid for
246 each acre-foot of Water Delivered as described in subdivision (l)(1) of Article 7 of this Contract;

247 (ii) “Water Delivered” or “Delivered Water” shall mean Project Water diverted for
248 use by the Contractor at the point(s) of delivery approved by the Contracting Officer;

249 (jj) "Water Made Available" shall mean the estimated amount of Project Water
250 that can be delivered to the Contractor for the upcoming Year as declared by the Contracting Officer,
251 pursuant to subdivision (a) of Article 4 of this Contract;

252 (kk) "Water Management Goal" shall mean the goal of the Settlement to reduce or
253 avoid adverse water supply impacts to all the Friant Division Project Contractors that may result from
254 the interim flows and restoration flows provided for in the Settlement;

255 (ll) "Water Scheduled" shall mean Project Water made available to the Contractor
256 for which times and quantities for delivery have been established by the Contractor and Contracting
257 Officer, pursuant to subdivision (b) of Article 4 of this Contract; and

258 (mm) "Year" shall mean the period from and including March 1 of each Calendar
259 Year through the last day of February of the following Calendar Year.

260 EFFECTIVE DATE OF CONTRACT

261 2. (a) This Contract shall become effective on the date first hereinabove written and
262 shall continue so long as the Contractor is making the annual payments required herein and paying
263 any other amounts owing under this Contract and applicable law, unless it is terminated by the
264 Contracting Officer by reason of a material uncured breach by the Contractor; Provided, That the
265 Contracting Officer shall not seek to terminate this Contract by reason of an asserted material
266 uncured breach by the Contractor unless it has first provided at least sixty (60) days written notice of
267 the asserted breach to the Contractor and the Contractor has failed to cure such breach (or to
268 diligently commence curative actions satisfactory to the Contracting Officer for a breach that cannot

269 be fully cured within sixty (60) days) within the sixty (60)-day notice period; Provided further, That
270 this Contract may be terminated at any time by mutual consent of the parties hereto.

271 (b) Upon complete payment of the Repayment Obligation by the Contractor, and
272 notwithstanding any Additional Capital Obligation that may later be established, the Tiered Pricing
273 Component as that term is utilized in this Contract, the acreage limitations, reporting, and Full Cost
274 pricing provisions of Federal Reclamation law, and subdivisions (k), (l), (o) through (q), (s), and (v)
275 of Article 1, subdivisions (a)(2)(A), (l)(1), (l)(2), and (l)(3) of Article 7, Article 14, subdivision (a) of
276 Article 18, and Article 25, all of this Contract, shall no longer be applicable to the Contractor. Upon
277 complete payment of the Repayment Obligation by the Contractor, and notwithstanding any
278 Additional Capital Obligation that may later be established, the terms of this Contract shall be as
279 provided in the restated contract attached hereto as Exhibit "E", which has been prepared solely as a
280 matter of administrative convenience. Exhibit "E" makes no substantive revisions other than those
281 required by this subdivision of this Article of this Contract. Accordingly, upon complete payment of
282 the Repayment Obligation by the Contractor, and notwithstanding any Additional Capital Obligation
283 that may later be established, the parties shall refer to Exhibit "E" as their entire agreement under this
284 Contract.

285 (c) This Contract supersedes in its entirety and is intended to replace in full the
286 Existing Contract; Provided, That if this Contract is terminated or determined to be invalid or
287 unenforceable for any reason other than a material uncured breach of this Contract by the Contractor,
288 the Existing Contract shall not be superseded and shall be in full force and effect.

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WATER TO BE MADE AVAILABLE AND DELIVERED TO THE CONTRACTOR

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3. (a) During each Year, consistent with all applicable State water rights, permits, and licenses, Federal law, the Settlement including the SJRRSA, and subject to the provisions set forth in Articles 12 and 13 of this Contract, the Contracting Officer shall make available for delivery to the Contractor from the Project 16,000 acre-feet of Class 1 Water and 30,000 acre-feet of Class 2 Water for irrigation purposes. The quantity of Water Delivered to the Contractor in accordance with this subdivision shall be scheduled and paid for pursuant to the provisions of Articles 4 and 7 of this Contract.

(b) Upon complete payment of the Repayment Obligation by the Contractor, and notwithstanding any Additional Capital Obligation that may later be established, the Contractor shall have a permanent right to the Contract Total in accordance with the 1956 Act and the terms of this Contract. This right shall not be disturbed so long as the Contractor fulfills all of its obligations hereunder. The quantity of water made available for delivery in any given Year shall remain subject to the terms and conditions of subdivision (a) of this Article of this Contract.

(c) The Contractor shall utilize the Project Water in accordance with all applicable legal requirements.

(d) The Contractor shall make reasonable and beneficial use of all Project Water or other water furnished pursuant to this Contract. Groundwater recharge programs, groundwater banking programs, surface water storage programs, and other similar programs utilizing Project Water or other water furnished pursuant to this Contract conducted within the Contractor's Service Area which are consistent with applicable State law and result in use consistent with applicable

311 Federal Reclamation law will be allowed; Provided, That any direct recharge program(s) is (are)
312 described in the Contractor's Water Conservation Plan submitted pursuant to Article 27 of this
313 Contract; Provided further, That such Water Conservation Plan demonstrates sufficient lawful uses
314 exist in the Contractor's Service Area so that using a long-term average, the quantity of Delivered
315 Water is demonstrated to be reasonable for such uses and in compliance with Federal Reclamation
316 law. Groundwater recharge programs, groundwater banking programs, surface water storage
317 programs, and other similar programs utilizing Project Water or other water furnished pursuant to this
318 Contract conducted outside the Contractor's Service Area may be permitted upon written approval of
319 the Contracting Officer, which approval will be based upon environmental documentation, Project
320 Water rights, and Project operational concerns. The Contracting Officer will address such concerns
321 in regulations, policies, or guidelines.

322 (e) The Contractor, through this Contract, shall comply with requirements
323 applicable to the Contractor in biological opinion(s) prepared as a result of the consultation regarding
324 the execution of the Existing Contract undertaken pursuant to Section 7 of the Endangered Species
325 Act of 1973, as amended, as well as the requirements of any other biological opinions applicable to
326 Project Water delivery under this Contract, that are within the Contractor's legal authority to
327 implement. The Contractor shall comply with the limitations or requirements imposed by
328 environmental documentation applicable to the Contractor and within its legal authority to implement
329 regarding specific activities. Nothing herein shall be construed to prevent the Contractor from
330 challenging or seeking judicial relief in a court of competent jurisdiction with respect to any
331 biological opinion or other environmental documentation referred to in this Article of this Contract.

332 (f) Subject to subdivisions (l) and (n) of this Article of this Contract, following the
333 declaration of Water Made Available under Article 4 of this Contract, the Contracting Officer will
334 make a determination whether Project Water, or other water available to the Project, can be made
335 available to the Contractor in addition to the Contract Total in this Article of this Contract during the
336 Year without adversely impacting the Project or other Project Contractors and consistent with the
337 Secretary's legal obligations. At the request of the Contractor, the Contracting Officer will consult
338 with the Contractor prior to making such a determination. Subject to subdivisions (l) and (n) of this
339 Article of this Contract, if the Contracting Officer determines that Project Water, or other water
340 available to the Project, can be made available to the Contractor, the Contracting Officer will
341 announce the availability of such water and shall so notify the Contractor as soon as practical. The
342 Contracting Officer will thereafter meet with the Contractor and other Project Contractors capable of
343 taking such water to determine the most equitable and efficient allocation of such water. If the
344 Contractor requests the delivery of any quantity of such water, the Contracting Officer shall make
345 such water available to the Contractor in accordance with applicable statutes, regulations, guidelines,
346 and policies.

347 (g) The Contractor may request permission to reschedule for use during the
348 subsequent Year some or all of the Water Made Available to the Contractor during the current Year
349 referred to as "carryover." The Contractor may request permission to use during the current Year a
350 quantity of Project Water which may be made available by the United States to the Contractor during
351 the subsequent Year referred to as "pre-use." The Contracting Officer's written approval may permit
352 such uses in accordance with applicable statutes, regulations, guidelines, and policies.

353 (h) The Contractor's right pursuant to Federal Reclamation law and applicable
354 State law to the reasonable and beneficial use of the Water Delivered pursuant to this Contract shall
355 not be disturbed so long as the Contractor shall fulfill all of its obligations under this Contract.
356 Nothing in the preceding sentence shall affect the Contracting Officer's ability to impose shortages
357 under Article 12 or subdivision (b) of Article 13 of this Contract.

358 (i) Project Water furnished to the Contractor pursuant to this Contract may be
359 delivered for purposes other than those described in subdivisions (r) and (y) of Article 1 of this
360 Contract upon written approval by the Contracting Officer in accordance with the terms and
361 conditions of such approval.

362 (j) The Contracting Officer shall make reasonable efforts to protect the water
363 rights and other rights described in the fifth (5th) Explanatory Recital of this Contract and to provide
364 the water available under this Contract. The Contracting Officer shall not object to participation by
365 the Contractor, in the capacity and to the extent permitted by law, in administrative proceedings
366 related to the water rights and other rights described in the fifth (5th) Explanatory Recital of this
367 Contract; Provided however, That the Contracting Officer retains the right to object to the substance
368 of the Contractor's position in such a proceeding. Provided further, that in such proceedings the
369 Contracting Officer shall recognize the Contractor has a legal right under the terms of this Contract to
370 use Project Water.

371 (k) Project Water furnished to the Contractor during any month designated in a
372 schedule or revised schedule submitted by the Contractor and approved by the Contracting Officer
373 shall be deemed to have been accepted by the Contractor as Class 1 Water to the extent that Class 1

374 Water is called for in such schedule for such month and shall be deemed to have been accepted as
375 Class 2 Water to the extent Class 2 Water is called for in such schedule for such month. If in any
376 month the Contractor diverts a quantity of water in addition to the total amount of Class 1 Water and
377 Class 2 Water set forth in the Contractor's approved schedule or revised schedule for such month,
378 such additional diversions shall be charged first against the Contractor's remaining Class 2 Water
379 supply available in the current Year. To the extent the Contractor's remaining Class 2 Water supply
380 available in the current Year is not sufficient to account for such additional diversions, such
381 additional diversions shall be charged against the Contractor's remaining Class 1 Water supply
382 available in the current Year. To the extent the Contractor's remaining Class 1 Water and Class 2
383 Water supplies available in the current Year are not sufficient to account for such additional
384 diversions, such additional diversions shall be charged first against the Contractor's available Class 2
385 Water supply and then against the Contractor's available Class 1 Water supply, both for the following
386 Year. Payment for all additional diversions of water shall be made in accordance with Article 7 of
387 this Contract.

388 (1) If the Contracting Officer determines there is a Project Water supply available
389 at Friant Dam as the result of an unusually large water supply not otherwise storable for Project
390 purposes or infrequent and otherwise unmanaged flood flows of short duration, such water will be
391 made available to the Contractor and others under Section 215 of the Act of October 12, 1982,
392 pursuant to the priorities specified below if the Contractor enters into a temporary contract with the
393 United States not to exceed one (1) year for the delivery of such water or as otherwise provided for in
394 Federal Reclamation law and associated regulations. Such water may be identified by the Contractor

395 either (i) as additional water to supplement the supply of Class 1 Water and/or Class 2 Water made
396 available to it pursuant to this Contract or, (ii) upon written notification to the Contracting Officer, as
397 water to be credited against the Contractor's Class 2 Water supply available pursuant to this Contract.
398 The Contracting Officer shall make water determined to be available pursuant to this subsection
399 according to the following priorities: first, to contractors for Class 1 Water and/or Class 2 Water
400 within the Friant Division; second, to contractors in the Cross Valley Division of the Project. The
401 Contracting Officer will consider requests from other parties for Section 215 Water for use within the
402 area identified as the Friant Division service area in the environmental assessment developed in
403 connection with the execution of the Existing Contract.

404 (m) Nothing in this Contract, nor any action or inaction of the Contractor or
405 Contracting Officer in connection with the implementation of this Contract, is intended to override,
406 modify, supersede or otherwise interfere with any term or condition of the water rights and other
407 rights referred in the fifth (5th) Explanatory Recital of this Contract.

408 (n) The rights of the Contractor under this Contract are subject to the terms of the
409 contract for exchange waters, dated July 27, 1939, between the United States and the San Joaquin and
410 Kings River Canal and Irrigation Company, Incorporated, et al., (hereinafter referred to as the
411 Exchange Contractors), Contract No. I1r-1144, as amended. The United States agrees that it will not
412 deliver to the Exchange Contractors thereunder waters of the San Joaquin River unless and until
413 required by the terms of said contract, and the United States further agrees that it will not voluntarily
414 and knowingly determine itself unable to deliver to the Exchange Contractors entitled thereto from
415 water that is available or that may become available to it from the Sacramento River and its

416 tributaries or the Sacramento-San Joaquin Delta those quantities required to satisfy the obligations of
417 the United States under said Exchange Contract and under Schedule 2 of the Contract for Purchase of
418 Miller and Lux Water Rights (Contract I1r-1145, dated July 27, 1939).

419 (o) Pursuant to and consistent with section 10004 of SJRRSA and Paragraph 16 of
420 the Settlement, the Contracting Officer is required to develop and implement a plan for recirculation,
421 recapture, reuse, exchange or transfer of water released for restoration flows or interim flows, as
422 those terms are defined in the Settlement, to reduce or avoid impacts to water deliveries caused by
423 said restoration flows or interim flows. Water developed through such activities may be made
424 available (i) to the Contractor without the need of an additional contract, and/or (ii) to others on
425 behalf of the Contractor under terms mutually acceptable to the Contractor and the Contracting
426 Officer that are consistent with the Water Management Goal.

427 TIME FOR DELIVERY OF WATER

428 4. (a) On or about February 20 of each Calendar Year, the Contracting Officer shall
429 announce the Contracting Officer's initial declaration of the Water Made Available. The declaration
430 will be updated monthly and more frequently if necessary, based on then-current operational and
431 hydrologic conditions and a new declaration with changes, if any, to the Water Made Available will
432 be made. The Contracting Officer shall provide forecasts of Project operations and the basis of the
433 estimate, with relevant supporting information, upon the written request of the Contractor.
434 Concurrently with the declaration of the Water Made Available, the Contracting Officer shall provide
435 the Contractor with the updated Long Term Historic Average. The declaration of Project operations
436 will be expressed in terms of both Water Made Available and the Long Term Historic Average.

437 (b) On or before each March 1 and at such other times as necessary, the Contractor
438 shall submit to the Contracting Officer a written schedule, satisfactory to the Contracting Officer,
439 showing the monthly quantities of Project Water to be delivered by the United States to the
440 Contractor pursuant to this Contract for the Year commencing on such March 1. The Contracting
441 Officer shall use all reasonable means to deliver Project Water according to the approved schedule
442 for the Year commencing on such March 1.

443 (c) The Contractor shall not schedule Project Water in excess of the quantity of
444 Project Water the Contractor intends to put to reasonable and beneficial use within the Contractor's
445 Service Area, or to sell, transfer or exchange pursuant to Article 10 of this Contract or bank pursuant
446 to subdivision (d) of Article 3 of this Contract during any Year.

447 (d) Subject to the conditions set forth in subdivision (a) of Article 3 of this
448 Contract, the United States shall deliver Project Water to the Contractor in accordance with the initial
449 schedule submitted by the Contractor pursuant to subdivision (b) of this Article, or any written
450 revision(s), satisfactory to the Contracting Officer, thereto submitted within a reasonable time prior to
451 the date(s) on which the requested change(s) is/are to be implemented; Provided, That the total
452 amount of water requested in that schedule or revision does not exceed the quantities announced by
453 the Contracting Officer pursuant to the provisions of subdivision (a) of Article 3 of this Contract, and
454 the Contracting Officer determines that there will be sufficient capacity available in the appropriate
455 Friant Division Facilities to deliver the water in accordance with that schedule; Provided further,
456 That the Contractor shall not schedule the delivery of any water during any period as to which the
457 Contractor is notified by the Contracting Officer or Operating Non-Federal Entity that Project

458 facilities required to make deliveries to the Contractor will not be in operation because of scheduled
459 O&M.

460 (e) The Contractor may, during the period from and including November 1 of each
461 Year through and including the last day of February of that Year, request delivery of any amount of
462 the Class 1 Water estimated by the Contracting Officer to be made available to it during the following
463 Year. The Contractor may, during the period from and including January 1 of each Year (or such
464 earlier date as may be determined by the Contracting Officer) through and including the last day of
465 February of that Year, request delivery of any amount of Class 2 Water estimated by the Contracting
466 Officer to be made available to it during the following Year. Such water shall hereinafter be referred
467 to as pre-use water. Such request must be submitted in writing by the Contractor for a specified
468 quantity of pre-use and shall be subject to the approval of the Contracting Officer. Payment for pre-
469 use water so requested shall be at the appropriate Rate(s) for the following Year in accordance with
470 Article 7 of this Contract and shall be made in advance of delivery of any pre-use water. The
471 Contracting Officer shall deliver such pre-use water in accordance with a schedule or any revision
472 thereof submitted by the Contractor and approved by the Contracting Officer, to the extent such water
473 is available and to the extent such deliveries will not interfere with the delivery of Project Water
474 entitlements to other Friant Division contractors or the physical maintenance of the Project facilities.
475 The quantities of pre-use Water Delivered pursuant to this subdivision shall be deducted from the
476 quantities of water that the Contracting Officer would otherwise be obligated to make available to the
477 Contractor during the following Year; Provided, That the quantity of pre-use water to be deducted
478 from the quantities of either Class 1 Water or Class 2 Water to be made available to the Contractor in

479 the following Year shall be specified by the Contractor at the time the pre-use water is requested or as
480 revised in its first schedule for the following Year submitted in accordance with subdivision (b) of
481 this Article of this Contract, based on the availability of the following Year water supplies as
482 determined by the Contracting Officer.

483 POINT OF DIVERSION AND RESPONSIBILITY FOR DISTRIBUTION OF WATER

484 5. (a) Project Water scheduled pursuant to subdivision (b) of Article 4 of this
485 Contract shall be delivered to the Contractor at a point or points of delivery either on Project facilities
486 or another location or locations mutually agreed to in writing by the Contracting Officer and the
487 Contractor.

488 (b) The Contracting Officer, the Operating Non-Federal Entity, or other
489 appropriate entity shall make all reasonable efforts to maintain sufficient flows and levels of water in
490 the Friant-Kern Canal to deliver Project Water to the Contractor at specific turnouts established
491 pursuant to subdivision (a) of this Article of this Contract.

492 (c) The Contractor shall not deliver Project Water to land outside the Contractor's
493 Service Area unless approved in advance by the Contracting Officer. Until complete payment of the
494 Repayment Obligation by the Contractor, and notwithstanding any Additional Capital Obligation that
495 may later be established, the Contractor shall deliver Project Water in accordance with applicable
496 acreage limitations, reporting, and Full Cost pricing provisions of Federal Reclamation law and any
497 applicable land classification provisions of the associated regulations.

498 (d) All Water Delivered to the Contractor pursuant to this Contract shall be
499 measured and recorded with equipment furnished, installed, operated, and maintained by the United

500 States, the Operating Non-Federal Entity or other appropriate entity as designated by the Contracting
501 Officer (hereafter “other appropriate entity”) at the point or points of delivery established pursuant to
502 subdivision (a) of this Article of this Contract. Upon the request of either party to this Contract, the
503 Contracting Officer shall investigate, or cause to be investigated by the responsible Operating Non-
504 Federal Entity, the accuracy of such measurements and shall take any necessary steps to adjust any
505 errors appearing therein. For any period of time when accurate measurements have not been made,
506 the Contracting Officer shall consult with the Contractor and the responsible Operating Non-Federal
507 Entity prior to making a final determination of the quantity delivered for that period of time.

508 (e) Neither the Contracting Officer nor any Operating Non-Federal Entity shall be
509 responsible for the control, carriage, handling, use, disposal, or distribution of Project Water
510 Delivered to the Contractor pursuant to this Contract beyond the delivery points specified in
511 subdivision (a) of this Article of this Contract. The Contractor shall indemnify the United States, its
512 officers, employees, agents, and assigns on account of damage or claim of damage of any nature
513 whatsoever for which there is legal responsibility, including property damage, personal injury, or
514 death arising out of or connected with the control, carriage, handling, use, disposal, or distribution of
515 such Project Water beyond such delivery points, except for any damage or claim arising out of: (i)
516 acts or omissions of the Contracting Officer or any of its officers, employees, agents, or assigns,
517 including any responsible Operating Non-Federal Entity, with the intent of creating the situation
518 resulting in any damage or claim; (ii) willful misconduct of the Contracting Officer or any of its
519 officers, employees, agents, or assigns, including any responsible Operating Non-Federal Entity; (iii)
520 negligence of the Contracting Officer or any of its officers, employees, agents, or assigns including

521 any responsible Operating Non-Federal Entity; or (iv) damage or claims resulting from a malfunction
522 of facilities owned and/or operated by the United States or responsible Operating Non-Federal Entity;
523 Provided, That the Contractor is not the Operating Non-Federal Entity that owned or operated the
524 malfunctioning facility(ies) from which the damage claim arose.

525 MEASUREMENT OF WATER WITHIN THE SERVICE AREA

526 6. (a) The Contractor has established a measurement program satisfactory to the
527 Contracting Officer; all surface water delivered for irrigation purposes within the Contractor's
528 Service Area is measured at each agricultural turnout; and Other Water delivered by the Contractor is
529 measured at each service connection. The water measuring devices or water measuring methods of
530 comparable effectiveness must be acceptable to the Contracting Officer. The Contractor shall be
531 responsible for installing, operating, and maintaining and repairing all such measuring devices and
532 implementing all such water measuring methods at no cost to the United States. The Contractor shall
533 use the information obtained from such water measuring devices or water measuring methods to
534 ensure its proper management of the water and to bill water users for water delivered by the
535 Contractor. Nothing herein contained, however, shall preclude the Contractor from establishing and
536 collecting any charges, assessments, or other revenues authorized by California law.

537 (b) To the extent the information has not otherwise been provided, upon execution
538 of this Contract, the Contractor shall provide to the Contracting Officer a written report describing
539 the measurement devices or water measuring methods being used or to be used to implement
540 subdivision (a) of this Article of this Contract and identifying the agricultural turnouts and the Other
541 Water service connections or alternative measurement programs approved by the Contracting Officer,

542 at which such measurement devices or water measuring methods are being used, and, if applicable,
543 identifying the locations at which such devices and/or methods are not yet being used including a
544 time schedule for implementation at such locations. The Contracting Officer shall advise the
545 Contractor in writing within sixty (60) days as to the adequacy of, and necessary modifications, if
546 any, of the measuring devices or water measuring methods identified in the Contractor's report and if
547 the Contracting Officer does not respond in such time, they shall be deemed adequate. If the
548 Contracting Officer notifies the Contractor that the measuring devices or methods are inadequate, the
549 parties shall within sixty (60) days following the Contracting Officer's response, negotiate in good
550 faith the earliest practicable date by which the Contractor shall modify said measuring devices and/or
551 measuring methods as required by the Contracting Officer to ensure compliance with subdivision (a)
552 of this Article of this Contract.

553 (c) All new surface water delivery systems installed within the Contractor's
554 Service Area after the effective date of this Contract shall also comply with the measurement
555 provisions described in subdivision (a) of this Article of this Contract.

556 (d) The Contractor shall inform the Contracting Officer and the State of California
557 in writing by April 30 of each Year of the monthly volume of surface water delivered within the
558 Contractor's Service Area during the previous Year.

559 (e) The Contractor shall inform the Contracting Officer and the Operating Non-
560 Federal Entity on or before the twentieth (20th) calendar day of each month of the quantity of
561 Irrigation and Other Water taken during the preceding month.

562

563 RATES, METHOD OF PAYMENT FOR WATER,
564 AND ACCELERATED REPAYMENT OF FACILITIES

565 7. (a) The Contractor's cost obligations for all Delivered Water shall be determined
566 in accordance with: (i) the Secretary's ratesetting policy for Irrigation Water adopted in 1988 and the
567 Secretary's then-existing ratesetting policy for M&I Water, consistent with the SJRRSA, and such
568 ratesetting policies shall be amended, modified, or superseded only through a public notice and
569 comment procedure; (ii) applicable Federal Reclamation law and associated rules and regulations, or
570 policies; and (iii) other applicable provisions of this Contract.

571 (1) The Contractor shall pay the United States as provided for in this
572 Article of this Contract for the Delivered Water at Rates and Charges determined in accordance with
573 policies for Irrigation Water and M&I Water. The Contractor's Rates shall be established to recover
574 its estimated reimbursable costs included in the O&M Component of the Rate and amounts
575 established to recover other charges and deficits, other than the construction costs. The Rates for
576 O&M costs and Charges shall be adjusted, as appropriate, in accordance with the provisions of the
577 SJRRSA.

578 (2) In accordance with the SJRRSA, the Contractor's allocable share of
579 Project construction costs will be repaid pursuant to the provisions of this Contract.

580 (A) The amount due and payable to the United States, pursuant to
581 the SJRRSA, shall be the Repayment Obligation. The Repayment Obligation has been computed by
582 the Contracting Officer in a manner consistent with the SJRRSA and is set forth, both as a lump sum
583 payment and as four (4) approximately equal annual installments, which amounts together with the
584 manner in which such amounts were calculated are set forth in Exhibits "C-1" and "C-2". The

585 Repayment Obligation is due in lump sum by January 31, 2011 or in approximate equal annual
586 installments no later than January 31, 2014, as provided by the SJRRSA. The Contractor must
587 provide appropriate notice to the Contracting Officer in writing not later than thirty (30) days prior to
588 January 31, 2011 if electing to repay the amount due using the lump sum alternative. If such notice is
589 not provided by such date, the Contractor shall be deemed to have elected the installment payment
590 alternative, in which case, the first such payment shall be made no later than May 1, 2011, the second
591 payment shall be made no later than the first anniversary of the first payment date, the third payment
592 shall be made no later than the second anniversary of the first payment date, and the final payment
593 shall be made no later than January 31, 2014. If the installment payment option is elected by the
594 Contractor, the Contractor may pre-pay the remaining portion of the Repayment Obligation by giving
595 the Contracting Officer sixty (60) days written notice, in which case, the Contracting Officer shall re-
596 compute the remaining amount due to reflect the pre-payment using the same methodology as was
597 used to compute the initial annual installment payment amount, which is illustrated in Exhibit "C-2".
598 Notwithstanding any Additional Capital Obligation that may later be established, receipt of the
599 Contractor's payment of the Repayment Obligation by the United States shall fully and permanently
600 satisfy the Existing Capital Obligation.

601 (B) Project construction costs or other capitalized costs attributable
602 to capital additions to the Project incurred after the effective date of this Contract or that are not
603 reflected in the schedules referenced in Exhibits "C-1" and "C-2" and properly assignable to the
604 Contractor, shall be repaid as prescribed by the SJRRSA without interest except as required by law.
605 Consistent with Federal Reclamation law, interest shall continue to accrue on the M&I portion of

606 unpaid Project construction costs or other capitalized cost assigned to the Contractor until such costs
607 are paid. Increases or decreases in Project construction costs or other capitalized costs assigned to the
608 Contractor caused solely by annual adjustment of Project construction costs or other capitalized costs
609 assigned to each CVP contractor by the Secretary shall not be considered in determining the amounts
610 to be paid pursuant to this subdivision (a)(2)(B), but will be considered under subdivision (b) of this
611 Article. A separate repayment agreement shall be established by the Contractor and the Contracting
612 Officer to accomplish repayment of all additional Project construction costs or other capitalized costs
613 assigned to the Contractor within the timeframe prescribed by the SJRRSA subject to the following:

614 (1) If the collective annual Project construction costs or
615 other capitalized costs that are incurred after the effective date of this Contract and properly
616 assignable to the contractors are less than \$5,000,000, then the portion of such costs properly
617 assignable to the Contractor shall be repaid in not more than five (5) years after notification of the
618 allocation. This amount is the result of a collective annual allocation of Project construction costs to
619 the contractors exercising contract conversions; Provided, That the reference to the amount of
620 \$5,000,000 shall not be a precedent in any other context.

621 (2) If the collective annual Project construction costs or
622 other capitalized costs that are incurred after the effective date of this Contract and properly
623 assignable to the contractors are \$5,000,000 or greater, then the portion of such costs properly
624 assignable to the Contractor shall be repaid as provided by applicable Federal Reclamation law. This
625 amount is the result of a collective annual allocation of Project construction costs to the contractors

626 exercising contract conversions; Provided, That the reference to the amount of \$5,000,000 shall not
627 be a precedent in any other context.

628 (b) Consistent with Section 10010(b) of the SJRRSA, following a final cost
629 allocation by the Secretary upon completion of the construction of the Central Valley Project, the
630 amounts paid by the Contractor shall be subject to adjustment to reflect the effect of any reallocation
631 of Project construction costs or other capitalized costs assigned to the Contractor that may have
632 occurred between the determination of Contractor's Existing Capital Obligation and the final cost
633 allocation. In the event that the final cost allocation, as determined by the Secretary, indicates that
634 the costs properly assignable to the Contractor, as determined by the Contracting Officer, are greater
635 than the Existing Capital Obligation and other amounts of Project construction costs or other
636 capitalized costs paid by the Contractor, then the Contractor shall be obligated to pay the remaining
637 allocated costs. The term of such additional repayment contract shall be no less than one (1) year and
638 no more than ten (10) years, however, mutually agreeable provisions regarding the rate of repayment
639 of such amount may be developed by the parties. In the event that the final cost allocation, as
640 determined by the Secretary, indicates that the costs properly assignable to the Contractor, as
641 determined by the Contracting Officer, are less than the Existing Capital Obligation and other
642 amounts of Project construction costs or other capitalized costs paid by the Contractor, then the
643 Contracting Officer shall credit such overpayment as an offset against any outstanding or future
644 obligation of the Contractor, consistent with the SJRRSA. This Contract shall be implemented in a
645 manner consistent with Section 10010(f) of the SJRRSA.

646 (c) Prior to July 1 of each Calendar Year, the Contracting Officer shall provide the
647 Contractor an estimate of the Charges for Project Water that will be applied to the period October 1,
648 of the current Calendar Year, through September 30, of the following Calendar Year, and the basis
649 for such estimate. The Contractor shall be allowed not less than two (2) months to review and
650 comment on such estimates. On or before September 15 of each Calendar Year, the Contracting
651 Officer shall notify the Contractor in writing of the Charges to be in effect during the period October
652 1 of the current Calendar Year, through September 30 of the following Calendar Year, and such
653 notification shall revise Exhibit “B”. Charges shall be subject to reduction consistent with the
654 SJRRSA based upon the average annual delivery amount agreed to by the Contracting Officer and the
655 Contractor.

656 (1) Upon complete payment of the Repayment Obligation by the
657 Contractor, and notwithstanding any Additional Capital Obligation that may later be established, for
658 the years 2020 through 2039 inclusive, Charges shall reflect the reduction on a per acre-foot basis
659 consistent with Section 10010(d)(1) of the SJRRSA. Exhibit “D” sets forth the reduction in Charges
660 to offset the Financing Costs as prescribed in Section 10010(d)(1) of the SJRRSA; Provided, That if
661 the Secretary determines such Charges are otherwise needed, an equivalent reduction will be made to
662 O&M costs consistent with such provisions of the SJRRSA. Consistent with Section 10010(d)(1) of
663 the SJRRSA and as shown in Exhibit “D”, the Friant Surcharge reduction has been calculated based
664 upon the anticipated average annual water deliveries, for the purpose of this reduction only, mutually
665 agreed upon by the Secretary and the Contractor for the period from January 1, 2020 through
666 December 31, 2039. The Friant Surcharge reduction shall remain fixed and shall only be applied to

667 Water Delivered pursuant to this Contract to which the Friant Surcharge applies (including but not
668 limited to water transferred, banked, or exchanged), commencing on January 1, 2020 until such
669 volume of Water Delivered equals 356,000 acre-feet or December 31, 2039, whichever occurs first.

670 (2) Further, to fully offset the Financing Costs, Contractor shall be entitled
671 to a reduction in other outstanding or future obligations of the Contractor in accordance with Section
672 10010(d)(2) of the SJRRSA. The amount of such further reduction in outstanding or future
673 obligations of the Contractor after October 1, 2019 has been computed by the Contracting Officer,
674 and as computed, such amount is set forth in Exhibit "D".

675 (d) Prior to October 1 of each Calendar Year, the Contracting Officer shall make
676 available to the Contractor an estimate of the Rates and Tiered Pricing Component for Project Water
677 for the following Year and the computations and cost allocations upon which those Rates are based.
678 The Contractor shall be allowed not less than two (2) months to review and comment on such
679 computations and cost allocations. By December 31 of each Calendar Year, the Contracting Officer
680 shall provide the Contractor with the final Rates and Tiered Pricing Component to be in effect for the
681 upcoming Year, and such notification shall revise Exhibit "B". The O&M component of the Rate
682 may be reduced as provided in the SJRRSA.

683 (e) At the time the Contractor submits the initial schedule for the delivery of
684 Project Water for each Year pursuant to subdivision (b) of Article 4 of this Contract, the Contractor
685 shall make an advance payment to the United States equal to the total amount payable pursuant to the
686 applicable Rate(s) set under subdivision (a) of this Article of this Contract, for the Project Water
687 scheduled to be delivered pursuant to this Contract during the first two (2) calendar months of the

688 Year. Before the end of the first month and before the end of each calendar month thereafter, the
689 Contractor shall make an advance payment to the United States, at the Rate(s) set under subdivision
690 (a) of this Article of this Contract, for the Water Scheduled to be delivered pursuant to this Contract
691 during the second month immediately following. Adjustments between advance payments for Water
692 Scheduled and payments at Rates due for Water Delivered shall be made before the end of the
693 following month; Provided, That any revised schedule submitted by the Contractor pursuant to
694 Article 4 of this Contract which increases the amount of Water Delivered pursuant to this Contract
695 during any month shall be accompanied with appropriate advance payment, at the Rates then in
696 effect, to assure that Project Water is not delivered to the Contractor in advance of such payment. In
697 any month in which the quantity of Water Delivered to the Contractor pursuant to this Contract
698 equals the quantity of Water Scheduled and paid for by the Contractor, no additional Project Water
699 shall be delivered to the Contractor unless and until an advance payment at the Rates then in effect
700 for such additional Project Water is made. Final adjustment between the advance payments for the
701 Water Scheduled and payments for the quantities of Water Delivered during each Year pursuant to
702 this Contract shall be made as soon as practicable but no later than April 30th of the following Year,
703 or sixty (60) days after the delivery of Project Water carried over under subdivision (g) of Article 3 of
704 this Contract if such water is not delivered by the last day of February.

705 (f) The Contractor shall also make a payment in addition to the Rate(s) in
706 subdivision (e) of this Article of this Contract to the United States for Water Delivered, at the
707 Charges and the appropriate Tiered Pricing Component then in effect, before the end of the month
708 following the month of delivery; Provided, That the Contractor may be granted an exception from the

709 Tiered Pricing Component pursuant to subdivision (l)(2) of this Article of this Contract. The
710 payments shall be consistent with the quantities of Irrigation Water and Other Water Delivered as
711 shown in the water delivery report for the subject month prepared by the Contracting Officer. Such
712 water delivery report shall be the basis for payment of Charges and Tiered Pricing Components by
713 the Contractor, and shall be provided to the Contractor by the Contracting Officer (as applicable)
714 within five (5) days after the end of the month of delivery. The water delivery report shall be deemed
715 a bill basis for payment of Charges and the applicable Tiered Pricing Component for Water
716 Delivered. Adjustment for overpayment or underpayment of Charges shall be made through the
717 adjustment of payments due to the United States for Charges for the next month. Any amount to be
718 paid for past due payment of Charges shall be computed pursuant to Article 21 of this Contract.

719 (g) The Contractor shall pay for any Water Delivered under subdivision (d), (f), or
720 (g) of Article 3 of this Contract as determined by the Contracting Officer pursuant to applicable
721 statutes, associated regulations, any applicable provisions of guidelines or ratesetting policies;
722 Provided, That the Rate for Water Delivered under subdivision (d) of Article 3 of this Contract shall
723 be no more than the otherwise applicable Rate for Irrigation Water or Other Water under subdivision
724 (a) of this Article of this Contract.

725 (h) Payments to be made by the Contractor to the United States under this
726 Contract may be paid from any revenues available to the Contractor.

727 (i) All revenues received by the United States from the Contractor relating to the
728 delivery of Project Water or the delivery of non-project water through Project facilities shall be
729 allocated and applied in accordance with Federal Reclamation law and the associated rules or

730 regulations, the then-existing Project Ratesetting policies for M&I Water or Irrigation Water, and
731 consistent with the SJRRSA.

732 (j) The Contracting Officer shall keep its accounts, pertaining to the
733 administration of the financial terms and conditions of its long-term contracts, in accordance with
734 applicable Federal standards so as to reflect the application of Project costs and revenues. The
735 Contracting Officer shall, each Year upon request of the Contractor, provide to the Contractor a
736 detailed accounting of all Project and Contractor expense allocations, the disposition of all Project
737 and Contractor revenues, and a summary of all water delivery information. The Contracting Officer
738 and the Contractor shall enter into good faith negotiations to resolve any discrepancies or disputes
739 relating to accountings, reports, or information.

740 (k) The parties acknowledge and agree that the efficient administration of this
741 Contract is their mutual goal. Recognizing that experience has demonstrated that mechanisms,
742 policies, and procedures used for establishing Rates, Charges, Tiered Pricing Components, and/or for
743 making and allocating payments, other than those set forth in this Article of this Contract, may be in
744 the mutual best interest of the parties, it is expressly agreed that the parties may enter into
745 agreements to modify the mechanisms, policies, and procedures for any of those purposes while this
746 Contract is in effect without amending this Contract.

747 (l) (1) Beginning at such time as the total of the deliveries of Class 1 Water
748 and Class 2 Water in a Year exceed eighty (80%) percent of the Contract Total, then before the end
749 of the month following the month of delivery the Contractor shall make an additional payment to the
750 United States equal to the applicable Tiered Pricing Component. The Tiered Pricing Component for

751 the total of the deliveries of Class 1 Water and Class 2 Water in excess of eighty (80%) percent of the
752 Contract Total, but less than or equal to ninety (90%) percent of the Contract Total, shall equal the
753 one-half of the difference between the Rate established under subdivision (a) of this Article of this
754 Contract and the Irrigation Full Cost Water Rate, or M&I Full Cost Water Rate, whichever is
755 applicable. The Tiered Pricing Component for the total of the deliveries of Class 1 Water and Class 2
756 Water which exceeds ninety (90%) percent of the Contract Total shall equal the difference between
757 (i) the Rate established under subdivision (a) of this Article of this Contract and (ii) the Irrigation Full
758 Cost Water Rate or M&I Full Cost Water Rate, whichever is applicable.

759 (2) Subject to the Contracting Officer's written approval, the Contractor
760 may request and receive an exemption from such Tiered Pricing Components for Project Water
761 Delivered to produce a crop which the Contracting Officer determines will provide significant and
762 quantifiable habitat values for waterfowl in fields where the water is used and the crops are produced;
763 Provided, That the exemption from the Tiered Pricing Components for Irrigation Water shall apply
764 only if such habitat values can be assured consistent with the purposes of CVPIA through binding
765 agreements executed with or approved by the Contracting Officer prior to use of such water.

766 (3) For purposes of determining the applicability of the Tiered Pricing
767 Components pursuant to this Article of this Contract, Water Delivered shall include Project Water
768 that the Contractor transfers to others but shall not include Project Water transferred and delivered to
769 the Contractor.

770 (m) Rates under the respective ratesetting policies will be established to recover
771 only reimbursable O&M (including any deficits) costs of the Project, as those terms are used in the

772 then-existing Project ratesetting policies, and consistent with the SJRRSA, and interest, where
773 appropriate, except in instances where a minimum Rate is applicable in accordance with the relevant
774 Project ratesetting policy. Changes of significance in practices which implement the Contracting
775 Officer's ratesetting policies will not be implemented until the Contracting Officer has provided the
776 Contractor an opportunity to discuss the nature, need, and impact of the proposed change.

777 (n) Except as provided in subsections 3405(a)(1)(B) and 3405(f) of the CVPIA,
778 the Rates for Project Water transferred by the Contractor shall be the Contractor's Rates adjusted
779 upward or downward to reflect the changed costs of delivery (if any) incurred by the Contracting
780 Officer in the delivery of the transferred Project Water to the transferee's point of delivery in
781 accordance with the then-existing Central Valley Project Ratesetting Policy.

782 NON-INTEREST BEARING OPERATION AND MAINTENANCE DEFICITS

783 8. The Contractor and the Contracting Officer concur that, as of the effective date of this
784 Contract, the Contractor has no non-interest bearing operation and maintenance deficits and therefore
785 shall have no further liability.

786 RECOVERED WATER ACCOUNT

787 9. (a) Notwithstanding any other provisions of this Contract, water delivered to the
788 Contractor under its Recovered Water Account as provided at Paragraph 16(b) of the Settlement and
789 affirmed by Section 10004(a)(5) of the SJRRSA shall be at the total cost of \$10.00 per acre foot.
790 Recovered Water Account water provided to the Contractor shall be administered at a priority for
791 delivery lower than Class 2 Water and higher than Section 215 Water.

792 (b) The manner in which the Recovered Water Account will be administered will
793 be developed in accordance with subdivision (k) of Article 7 of this Contract, the SJRRSA, and
794 Paragraph 16 of the Settlement.

795 SALES, TRANSFERS, AND EXCHANGES OF WATER

796 10. (a) The right to receive Project Water provided for in this Contract may be sold,
797 transferred, or exchanged to others for reasonable and beneficial uses within the State of California if
798 such sale, transfer, or exchange is authorized by applicable Federal and State laws, and applicable
799 guidelines or regulations then in effect. No sale, transfer, or exchange of Project Water under this
800 Contract may take place without the prior written approval of the Contracting Officer, except as
801 provided for in subdivisions (b) and (c) of this Article of this Contract. No such Project Water sales,
802 transfers, or exchanges shall be approved, where approval is required, absent compliance with
803 appropriate environmental documentation including but not limited to the National Environmental
804 Policy Act and the Endangered Species Act. Such environmental documentation must include, as
805 appropriate, an analysis of groundwater impacts and economic and social effects, including
806 environmental justice, of the proposed Project Water sales, transfers and exchanges on both the
807 transferor/exchanger and transferee/exchange recipient.

808 (b) In order to facilitate efficient water management by means of Project Water
809 sales, transfers, or exchanges of the type historically carried out among Project Contractors located
810 within the same geographical area and to allow the Contractor to participate in an accelerated water
811 transfer program, the Contracting Officer has prepared, as appropriate, necessary environmental
812 documentation including, but not limited to, the National Environmental Policy Act and the

813 Endangered Species Act analyzing annual Project Water sales, transfers, or exchanges among
814 Contractors within the same geographical area and the Contracting Officer has determined that such
815 Project Water sales, transfers, and exchanges comply with applicable law.

816 (c) Project Water sales, transfers, and exchanges analyzed in the environmental
817 documentation referenced in subdivision (b) of this Article of this Contract, shall be conducted with
818 advance notice to the Contracting Officer and the Contracting Officer's written acknowledgement of
819 the transaction, but shall not require prior written approval by the Contracting Officer.

820 (d) For Project Water sales, transfers, or exchanges to qualify under subdivision
821 (b) of this Article of this Contract such Project Water sale, transfer, or exchange must: (i) be for
822 irrigation purposes for lands irrigated within the previous three (3) years, for M&I use, groundwater
823 recharge, groundwater banking, similar groundwater activities, surface water storage, or fish and
824 wildlife resources; not lead to land conversion; and be delivered to established cropland, wildlife
825 refuges, groundwater basins or municipal and industrial use; (ii) occur within a single Year; (iii)
826 occur between a willing seller and a willing buyer or willing exchangers; (iv) convey water through
827 existing facilities with no new construction or modifications to facilities and be between existing
828 Project Contractors and/or the Contractor and the United States, Department of the Interior; and (v)
829 comply with all applicable Federal, State, and local or tribal laws and requirements imposed for
830 protection of the environment and Indian Trust Assets, as defined under Federal law.

831 (e) The environmental documentation and the Contracting Officer's compliance
832 determination for transactions described in subdivision (b) of this Article of this Contract shall be
833 reviewed every five (5) years and updated, as necessary, prior to the expiration of the then-existing

834 five (5) year period. All subsequent environmental documentation shall include an alternative to
835 evaluate not less than the quantity of Project Water historically sold, transferred, or exchanged within
836 the same geographical area.

837 (f) Consistent with Section 10010(e)(l) of the SJRRSA, any agreement providing
838 for sale, transfer, or exchange of Project Water that is not used for interim flows or restoration flows
839 pursuant to Paragraphs 13 and 15 of the Settlement, shall be deemed to satisfy the requirements of
840 CVPIA section 3405(a)(1)(A) and (I); Provided, That such sales, transfers, or exchanges comply with
841 sub-division (f)(1) and (f)(2) below.

842 (1) Project Water sales, transfers, and exchanges conducted under the
843 provisions of subdivision (f) of this Article of this Contract shall not require the Contracting Officer's
844 concurrence as to compliance with CVPIA 3405(a)(1)(A) and (I); Provided, That the Contractor
845 shall, for Project Water sales, transfers, or exchanges, with a term greater than one (1) year, provide
846 ninety (90) days written advance notification to the Contracting Officer and similarly thirty (30) days
847 written advance notification of any Project Water sale, transfer, or exchange with a term of less than
848 one (1) year. The Contracting Officer shall promptly make such notice publicly available.

849 (2) The Contractor's thirty (30) days or ninety (90) days advance written
850 notification pursuant to subdivision (f)(1) of this Article of this Contract shall explain how the
851 proposed Project Water sales, transfers, or exchanges are intended to reduce, avoid, or mitigate
852 impacts to Project Water deliveries caused by interim or restoration flows or is otherwise intended to
853 facilitate the Water Management Goal as described in the SJRRSA. The Contracting Officer shall
854 promptly make such notice publicly available.

855 (3) In addition, the Contracting Officer shall, at least annually, make
856 available publicly a compilation of the number of Project Water sales, transfers, and exchange
857 agreements implemented in accordance with sub-divisions (f)(1) and (f)(2) of this Article of this
858 Contract.

859 (4) Project Water sold, transferred, or exchanged under an agreement that
860 meets the terms of subdivisions (f)(1) and (f)(2) of this Article of this Contract shall not be counted as
861 a replacement or an offset for purposes of determining reductions to Project Water deliveries to any
862 Friant Division Project Contractor except as provided in Paragraph 16(b) of the Settlement.

863 (g) Upon complete payment of the Repayment Obligation by the Contractor, and
864 notwithstanding any Additional Capital Obligation that may later be established, in the case of a sale
865 or transfer of Irrigation Water to another contractor which is otherwise subject to the acreage
866 limitations, reporting, and Full Cost pricing provisions of the RRA, such sold or transferred Irrigation
867 Water shall not be subject to such RRA provisions, however, in the case of a sale or transfer of
868 Irrigation Water to the Contractor from another contractor which is subject to RRA provisions, such
869 RRA provisions shall apply to delivery of such water.

870 APPLICATION OF PAYMENTS AND ADJUSTMENTS

871 11. (a) The amount of any overpayment by the Contractor of the Contractor's O&M,
872 Capital, and deficit (if any) obligations for the Year shall be applied first to any current liabilities of
873 the Contractor arising out of this Contract then due and payable. Overpayments of more than One
874 Thousand Dollars (\$1,000) shall be refunded at the Contractor's request. In lieu of a refund, any
875 amount of such overpayment, at the option of the Contractor, may be credited against amounts to

876 become due to the United States by the Contractor. With respect to overpayment, such refund or
877 adjustment shall constitute the sole remedy of the Contractor or anyone having or claiming to have
878 the right to the use of any of the Project Water supply provided for herein. All credits and refunds of
879 overpayments shall be made within thirty (30) days of the Contracting Officer obtaining direction as
880 to how to credit or refund such overpayment in response to the notice to the Contractor that it has
881 finalized the accounts for the Year in which the overpayment was made.

882 (b) All advances for miscellaneous costs incurred for work requested by the
883 Contractor pursuant to Article 26 of this Contract shall be adjusted to reflect the actual costs when the
884 work has been completed. If the advances exceed the actual costs incurred, the difference will be
885 refunded to the Contractor. If the actual costs exceed the Contractor's advances, the Contractor will
886 be billed for the additional costs pursuant to Article 26 of this Contract.

887 TEMPORARY REDUCTIONS—RETURN FLOWS

888 12. (a) The Contracting Officer shall make all reasonable efforts to optimize delivery
889 of the Contract Total subject to: (i) the authorized purposes and priorities of the Project; (ii) the
890 requirements of Federal law and the Settlement; and (iii) the obligations of the United States under
891 existing contracts, or renewals thereof, providing for water deliveries from the Project.

892 (b) The Contracting Officer or Operating Non-Federal Entity may temporarily
893 discontinue or reduce the quantity of Water Delivered to the Contractor as herein provided for the
894 purposes of investigation, inspection, maintenance, repair, or replacement of any of the Project
895 facilities or any part thereof necessary for the delivery of Project Water to the Contractor, but so far
896 as feasible the Contracting Officer or Operating Non-Federal Entity will give the Contractor due

897 notice in advance of such temporary discontinuance or reduction, except in case of emergency, in
898 which case no notice need be given; Provided, That the United States shall use its best efforts to
899 avoid any discontinuance or reduction in such service. Upon resumption of service after such
900 reduction or discontinuance, and if requested by the Contractor, the United States will, if possible,
901 deliver the quantity of Project Water which would have been delivered hereunder in the absence of
902 such discontinuance or reduction.

903 (c) The United States reserves the right to all seepage and return flow water
904 derived from Water Delivered to the Contractor hereunder which escapes or is discharged beyond the
905 Contractor's Service Area; Provided, That this shall not be construed as claiming for the United States
906 any right as seepage or return flow to water being used pursuant to this Contract for surface irrigation
907 or underground storage either being put to reasonable and beneficial use pursuant to this Contract
908 within the Contractor's Service Area by the Contractor or those claiming by, through, or under the
909 Contractor. For purposes of this subdivision, groundwater recharge, groundwater banking and all
910 similar groundwater activities will be deemed to be underground storage.

911 CONSTRAINTS ON THE AVAILABILITY OF WATER

912 13. (a) In its operation of the Project, the Contracting Officer will use all reasonable
913 means to guard against a Condition of Shortage in the quantity of water to be made available to the
914 Contractor pursuant to this Contract. In the event the Contracting Officer determines that a Condition
915 of Shortage appears probable, the Contracting Officer will notify the Contractor of said determination
916 as soon as practicable.

917 (b) If there is a Condition of Shortage because of errors in physical operations of
918 the Project, drought, other physical causes beyond the control of the Contracting Officer or actions
919 taken by the Contracting Officer to meet legal obligations, including but not limited to obligations
920 pursuant to the Settlement then, except as provided in subdivision (a) of Article 19 of this Contract,
921 no liability shall accrue against the United States or any of its officers, agents, or employees for any
922 damage, direct or indirect, arising therefrom.

923 (c) The United States shall not execute contracts which together with this
924 Contract, shall in the aggregate provide for furnishing Class 1 Water in excess of 800,000 acre-feet
925 per Year or Class 2 Water in excess of 1,401,475 acre-feet per Year; Provided, That, subject to
926 subdivision (l) of Article 3 of this Contract, the limitation placed on Class 2 Water contracts shall not
927 prohibit the United States from entering into temporary contracts of one year or less in duration for
928 delivery of Project Water to other entities if such water is not necessary to meet the schedules as may
929 be submitted by all Friant Division Project Contractors entitled to receive Class 1 Water and/or Class
930 2 Water under their contracts. Nothing in this subdivision shall limit the Contracting Officer's ability
931 to take actions that result in the availability of new water supplies to be used for Project purposes and
932 allocating such new supplies; Provided, That the Contracting Officer shall not take such actions until
933 after consultation with the Friant Division Project Contractors.

934 (d) The Contracting Officer shall not deliver any Class 2 Water pursuant to this or
935 any other contract heretofore or hereafter entered into any Year unless and until the Contracting
936 Officer determines that the cumulative total quantity of Class 1 Water specified in subdivision (c) of
937 this Article of this Contract will be available for delivery in said Year. If the Contracting Officer

938 determines there is or will be a shortage in any Year in the quantity of Class 1 Water available for
939 delivery, the Contracting Officer shall apportion the available Class 1 Water among all Contractors
940 entitled to receive such water that will be made available at Friant Dam in accordance with the
941 following:

942 (1) A determination shall be made of the total quantity of Class 1 Water at
943 Friant Dam which is available for meeting Class 1 Water contractual commitments, the amount so
944 determined being herein referred to as the available supply.

945 (2) The total available Class 1 supply shall be divided by the Class 1 Water
946 contractual commitments, the quotient thus obtained being herein referred to as the Class 1
947 apportionment coefficient.

948 (3) The total quantity of Class 1 Water under Article 3 of this Contract
949 shall be multiplied by the Class 1 apportionment coefficient and the result shall be the quantity of
950 Class 1 Water required to be delivered by the Contracting Officer to the Contractor for the respective
951 Year, but in no event shall such amount exceed the total quantity of Class 1 Water specified in
952 subdivision (a) of Article 3 of this Contract.

953 (e) If the Contracting Officer determines there is less than the quantity of Class 2
954 Water which the Contractor otherwise would be entitled to receive pursuant to Article 3 of this
955 Contract, the quantity of Class 2 Water which shall be furnished to the Contractor by the Contracting
956 Officer will be determined in the manner set forth in paragraphs (1), (2), and (3), of subdivision (d) of
957 this Article of this Contract substituting the term "Class 2" for the term "Class 1."

958 (f) In the event that in any Year there is made available to the Contractor, by
959 reason of any shortage or apportionment as provided in subdivisions (a), (d), or (e) of this Article of
960 this Contract, or any discontinuance or reduction of service as set forth in subdivision (b) of Article
961 12 of this Contract, less than the quantity of water which the Contractor otherwise would be entitled
962 to receive hereunder, there shall be made an adjustment on account of the amounts already paid to the
963 Contracting Officer by the Contractor for Class 1 Water and Class 2 Water for said Year in
964 accordance with Article 11 of this Contract.

965 UNAVOIDABLE GROUNDWATER PERCOLATION

966 14. To the extent applicable, the Contractor shall not be deemed to have delivered
967 Irrigation Water to Excess Lands and Ineligible Lands within the meaning of this Contract if such
968 lands are irrigated with groundwater that reaches the underground strata as an unavoidable result of
969 the delivery of Irrigation Water by the Contractor to Eligible Lands.

970 ACREAGE LIMITATION

971 15. (a) Notwithstanding the application of the acreage limitation provisions to
972 activities referred to in subdivision (b) of this Article, subdivision (a) of Article 16, and Article 18 of
973 this Contract, upon complete payment of the Repayment Obligation by the Contractor, and
974 notwithstanding any Additional Capital Obligation that may later be established, the provisions of
975 section 213(a) and (b) of the RRA shall apply to lands in the Contractor's Service Area, with the
976 effect that acreage limitations, reporting, and Full Cost pricing provisions of the RRA shall no longer
977 apply to lands in the Contractor's Service Area with respect to Water Delivered pursuant to this
978 Contract. Upon receiving the complete payment of the Repayment Obligation from the Contractor,

979 Reclamation will conduct a final water district review for the purpose of determining compliance
980 with the acreage limitations, reporting, and Full Cost pricing provisions of the RRA from the date of
981 the last water district review until the date when payment to Reclamation of the Repayment
982 Obligation is completed.

983 (b) Project Water to which the Contractor is entitled through a separate contract,
984 other than this Contract, that is subject to Federal Reclamation law, may be delivered to lands within
985 the Contractor's Service Area. Upon complete payment of the Repayment Obligation by the
986 Contractor, and notwithstanding any Additional Capital Obligation that may later be established,
987 Project Water Delivered under this Contract may be mixed with Project Water Delivered pursuant to
988 a contract with the United States, other than this Contract, to which acreage limitations, reporting,
989 and Full Cost pricing provisions of Federal Reclamation law apply without causing the application of
990 the acreage limitations, reporting, and the Full Cost pricing provisions of Federal Reclamation law to
991 the Water Delivered pursuant to this Contract; Provided, The terms and conditions in such other
992 contract shall continue to apply, and if such terms and conditions so require, the lands to receive
993 Project Water under such other contract shall be properly designated by the Contractor and such
994 Project Water is to be delivered in accordance with the RRA including any applicable acreage
995 limitations, reporting, and Full Cost pricing provisions.

996 COMPLIANCE WITH FEDERAL RECLAMATION LAWS

997 16. (a) The parties agree that the delivery of irrigation water or use of Federal
998 facilities pursuant to this Contract is subject to Federal reclamation law, including but not limited to
999 the Reclamation Reform Act of 1982 (43 U.S.C. 390 *aa et seq.*), as amended and supplemented, and
1000 the rules and regulations promulgated by the Secretary of the Interior under Federal reclamation law.

1001 (b) The terms of this Contract are subject to the Settlement and the SJRRSA.

1002 Nothing in this Contract shall be interpreted to limit or interfere with the full implementation of the
1003 Settlement and the SJRRSA.

1004 PROTECTION OF WATER AND AIR QUALITY

1005 17. (a) Project facilities used to make available and deliver water to the Contractor
1006 shall be operated and maintained in the most practical manner to maintain the quality of the water at
1007 the highest level possible as determined by the Contracting Officer: *Provided, That* the United States
1008 does not warrant the quality of the water delivered to the Contractor and is under no obligation to
1009 furnish or construct water treatment facilities to maintain or improve the quality of water delivered to
1010 the Contractor.

1011 (b) The Contractor shall comply with all applicable water and air pollution laws
1012 and regulations of the United States and the State of California; and shall obtain all required permits
1013 or licenses from the appropriate Federal, State, or local authorities necessary for the delivery of water
1014 by the Contractor; and shall be responsible for compliance with all Federal, State, and local water
1015 quality standards applicable to surface and subsurface drainage and/or discharges generated through
1016 the use of Federal or Contractor facilities or project water provided by the Contractor within the
1017 Contractor's Project Water Service Area.

1018 (c) This article shall not affect or alter any legal obligations of the Secretary to
1019 provide drainage or other discharge services.

1020 WATER ACQUIRED BY THE CONTRACTOR
1021 OTHER THAN FROM THE UNITED STATES

1022 18. (a) Until complete payment of the Repayment Obligation by the Contractor, and
1023 notwithstanding any Additional Capital Obligation that may later be established, water or water rights
1024 now owned or hereafter acquired by the Contractor other than from the United States and Irrigation
1025 Water furnished pursuant to the terms of this Contract may be simultaneously transported through the
1026 same distribution facilities of the Contractor subject to the following: (i) if the facilities utilized for
1027 commingling Irrigation Water and non-project water were constructed without funds made available
1028 pursuant to Federal Reclamation law, the acreage limitations, reporting, and Full Cost pricing

1029 provisions of Federal Reclamation law will be applicable only to the Landholders of lands which
1030 receive Irrigation Water; (ii) the eligibility of land to receive Irrigation Water must be established
1031 through the certification requirements as specified in the Acreage Limitation Rules and Regulations
1032 (43 CFR Part 426); and (iii) the water requirements of Eligible Lands within the Contractor's Service
1033 Area can be established and the quantity of Irrigation Water to be utilized is less than or equal to the
1034 quantity necessary to irrigate such Eligible Lands. The Contractor and the Contracting Officer
1035 concur that the Contractor's distribution system was constructed without funds made available
1036 pursuant to Federal Reclamation law. The use of this distribution system is not subject to the
1037 provisions of this subdivision of this Article.

1038 (b) Upon complete payment of the Repayment Obligation by the Contractor, and
1039 notwithstanding any Additional Capital Obligation that may later be established, water or water rights
1040 now owned or hereafter acquired by the Contractor other than from the United States pursuant to this
1041 Contract and Irrigation Water furnished pursuant to the terms of this Contract may be simultaneously
1042 transported through the same distribution facilities of the Contractor without the payment of fees to
1043 the United States and without application of Federal Reclamation law to Water Delivered pursuant to
1044 this Contract or to lands which receive Water Delivered to Contractor pursuant to this Contract.

1045 (c) Water or water rights now owned or hereafter acquired by the Contractor, other
1046 than from the United States or adverse to the Project or its contractors (i.e., non-project water), may
1047 be stored, conveyed and/or diverted through Project facilities, other than Friant Division Facilities,
1048 subject to the completion of appropriate environmental documentation, with the approval of the

1049 Contracting Officer and the execution of any contract determined by the Contracting Officer to be
1050 necessary, consistent with the following provisions:

1051 (1) The Contractor may introduce non-project water into Project facilities
1052 and deliver said water to lands within the Contractor's Service Area, including Ineligible Lands,
1053 subject to payment to the United States and/or to any applicable Operating Non-Federal Entity of an
1054 appropriate rate as determined by the Contracting Officer. In addition, if electrical power is required
1055 to pump non-project water, the Contractor shall be responsible for obtaining the necessary power and
1056 paying the necessary charges therefor.

1057 (2) Delivery of such non-project water in and through Project facilities
1058 shall only be allowed to the extent such deliveries do not: (i) interfere with other Project purposes as
1059 determined by the Contracting Officer; (ii) reduce the quantity or quality of water available to other
1060 Project Contractors; (iii) interfere with the delivery of contractual water entitlements to any other
1061 Project Contractors; (iv) interfere with the physical maintenance of the Project facilities; or (v) result
1062 in the United States incurring any liability or unreimbursed costs or expenses thereby.

1063 (3) Neither the United States nor the Operating Non-Federal Entity shall be
1064 responsible for control, care or distribution of the non-project water before it is introduced into or
1065 after it is delivered from the Project facilities. The Contractor hereby releases and agrees to defend
1066 and indemnify the United States and the Operating Non-Federal Entity, and their respective officers,
1067 agents, and employees, from any claim for damage to persons or property, direct or indirect, resulting
1068 from Contractor's diversion or extraction of non-project water from any source.

1069 (4) Diversion of such non-project water into Project facilities shall be
1070 consistent with all applicable laws, and if involving groundwater, consistent with any groundwater
1071 management plan for the area from which it was extracted.

1072 (5) After Project purposes are met, as determined by the Contracting
1073 Officer, the United States and the Contractor shall share priority to utilize the remaining capacity of
1074 the facilities declared to be available by the Contracting Officer for conveyance and transportation of
1075 non-project water prior to any such remaining capacity being made available to non-project
1076 contractors.

1077 (d) Non-project water may be stored, conveyed and/or diverted through Friant
1078 Division Facilities, subject to the prior completion of appropriate environmental documentation and
1079 approval of the Contracting Officer without execution of a separate contract, consistent with
1080 subdivisions (c)(1) through (c)(5) of this Article and any other condition determined to be appropriate
1081 by the Contracting Officer.

1082 OPINIONS AND DETERMINATIONS

1083 19. (a) Where the terms of this Contract provide for actions to be based upon the
1084 opinion or determination of either party to this Contract, said terms shall not be construed as
1085 permitting such action to be predicated upon arbitrary, capricious, or unreasonable opinions or
1086 determinations. Both parties, notwithstanding any other provisions of this Contract, expressly reserve
1087 the right to seek relief from and appropriate adjustment for any such arbitrary, capricious, or
1088 unreasonable opinion or determination. Each opinion or determination by either party shall be
1089 provided in a timely manner. Nothing in this Article of this Contract is intended to or shall affect or

1090 alter the standard of judicial review applicable under Federal law to any opinion or determination
1091 implementing a specific provision of Federal law embodied in statute or regulation.

1092 (b) The Contracting Officer shall have the right to make determinations necessary
1093 to administer this Contract that are consistent with the provisions of this Contract, the laws of the
1094 United States and the State of California, and the rules and regulations promulgated by the Secretary.
1095 Such determinations shall be made in consultation with the Contractor to the extent reasonably
1096 practicable.

1097 COORDINATION AND COOPERATION

1098 20. (a) In order to further their mutual goals and objectives, the Contracting Officer
1099 and the Contractor shall communicate, coordinate, and cooperate with each other, and with other
1100 affected Project Contractors, in order to improve the operation and management of the Project. The
1101 communication, coordination, and cooperation regarding operations and management shall include,
1102 but not limited to, any action which will or may materially affect the quantity or quality of Project
1103 Water supply, the allocation of Project Water supply, and Project financial matters including, but not
1104 limited to, budget issues. The communication, coordination, and cooperation provided for hereunder
1105 shall extend to all provisions of this Contract. Each party shall retain exclusive decision making
1106 authority for all actions, opinions, and determinations to be made by the respective party.

1107 (b) It is the intent of the Secretary to improve water supply reliability. To carry
1108 out this intent:

1109 (1) The Contracting Officer will, at the request of the Contractor, assist in
1110 the development of integrated resource management plans for the Contractor. Further, the

1111 Contracting Officer will, as appropriate, seek authorizations for implementation of partnerships to
1112 improve water supply, water quality, and reliability.

1113 (2) The Secretary will, as appropriate, pursue program and project
1114 implementation and authorization in coordination with Project Contractors to improve the water
1115 supply, water quality, and reliability of the Project for all Project purposes.

1116 (3) The Secretary will coordinate with Project Contractors and the State of
1117 California to seek improved water resource management.

1118 (4) The Secretary will coordinate actions of agencies within the
1119 Department of the Interior that may impact the availability of water for Project purposes.

1120 (5) The Contracting Officer shall periodically, but not less than annually,
1121 hold division level meetings to discuss Project operations, division level water management
1122 activities, and other issues as appropriate.

1123 (c) Without limiting the contractual obligations of the Contracting Officer
1124 hereunder, nothing in this Contract shall be construed to limit or constrain the Contracting Officer's
1125 ability to communicate, coordinate, and cooperate with the Contractor or other interested
1126 stakeholders or to make decisions in a timely fashion as needed to protect health, safety, physical
1127 integrity of structures or facilities, or the Contracting Officer's ability to comply with applicable
1128 laws.

1129 CHARGES FOR DELINQUENT PAYMENTS

1130 21. (a) The Contractor shall be subject to interest, administrative and penalty charges
1131 on delinquent installments or payments. When a payment is not received by the due date, the
1132 Contractor shall pay an interest charge for each day the payment is delinquent beyond the due date.
1133 When a payment becomes sixty (60) days delinquent, the Contractor shall pay an administrative

1134 charge to cover additional costs of billing and processing the delinquent payment. When a payment
1135 is delinquent ninety (90) days or more, the Contractor shall pay an additional penalty charge of six
1136 (6%) percent per year for each day the payment is delinquent beyond the due date. Further, the
1137 Contractor shall pay any fees incurred for debt collection services associated with a delinquent
1138 payment.

1139 (b) The interest charge rate shall be the greater of the rate prescribed quarterly in
1140 the Federal Register by the Department of the Treasury for application to overdue payments, or the
1141 interest rate of one-half of one (0.5%) percent per month prescribed by Section 6 of the Reclamation
1142 Project Act of 1939 (Public Law 76-260). The interest charge rate shall be determined as of the due
1143 date and remain fixed for the duration of the delinquent period.

1144 (c) When a partial payment on a delinquent account is received, the amount
1145 received shall be applied, first to the penalty, second to the administrative charges, third to the
1146 accrued interest, and finally to the overdue payment.

1147 EQUAL EMPLOYMENT OPPORTUNITY

1148 22. During the performance of this Contract, the Contractor agrees as follows:

1149 (a) The Contractor will not discriminate against any employee or applicant for
1150 employment because of race, color, religion, sex, disability, or national origin. The Contractor will
1151 take affirmative action to ensure that applicants are employed, and that employees are treated during
1152 employment, without regard to their race, color, religion, sex, disability, or national origin. Such
1153 action shall include, but not be limited to the following: employment, upgrading, demotion, or
1154 transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of
1155 compensation; and selection for training, including apprenticeship. The Contractor agrees to post in
1156 conspicuous places, available to employees and applicants for employment, notices to be provided by
1157 the Contracting Officer setting forth the provisions of this nondiscrimination clause.

1158 (b) The Contractor will, in all solicitations or advertisements for employees placed by
1159 or on behalf of the Contractor, state that all qualified applicants will receive consideration for
1160 employment without regard to race, color, religion, sex, disability, or national origin.

1161 (c) The Contractor will send to each labor union or representative of workers with
1162 which it has a collective bargaining agreement or other contract or understanding, a notice, to be
1163 provided by the Contracting Officer, advising the labor union or workers' representative of the
1164 Contractor's commitments under Section 202 of Executive Order 11246 of September 24, 1965, and
1165 shall post copies of the notice in conspicuous places available to employees and applicants for
1166 employment.

1167 (d) The Contractor will comply with all provisions of Executive Order No. 11246 of
1168 September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

1169 (e) The Contractor will furnish all information and reports required by Executive
1170 Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of
1171 Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the
1172 Contracting Agency and the Secretary of Labor for purposes of investigation to ascertain compliance
1173 with such rules, regulations, and orders.

1174 (f) In the event of the Contractor's noncompliance with the nondiscrimination clauses
1175 of this contract or with any of such rules, regulations, or orders, this contract may be canceled,
1176 terminated or suspended in whole or in part and the Contractor may be declared ineligible for further
1177 Government contracts in accordance with procedures authorized in Executive Order 11246 of
1178 September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in
1179 Executive Order 11246 of September 24, 1965 or by rule, regulation, or order of the Secretary of
1180 Labor, or as otherwise provided by law.

1181 (g) The Contractor will include the provisions of paragraphs (1) through (7) in every
1182 subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of
1183 Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such
1184 provisions will be binding upon each subcontractor or vendor. The Contractor will take such action
1185 with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a
1186 means of enforcing such provisions, including sanctions for noncompliance: *Provided, however*, that
1187 in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor
1188 or vendor as a result of such direction, the Contractor may request the United States to enter into such
1189 litigation to protect the interests of the United States.

1190 GENERAL OBLIGATION--BENEFITS CONDITIONED UPON PAYMENT

1191 23. (a) The obligation of the Contractor to pay the United States as provided in this
1192 Contract is a general obligation of the Contractor notwithstanding the manner in which the obligation
1193 may be distributed among the Contractor's water users and notwithstanding the default of individual
1194 water users in their obligations to the Contractor.

1195 (b) The payment of charges becoming due hereunder is a condition precedent to
1196 receiving benefits under this Contract. The United States shall not make water available to the
1197 Contractor through Project facilities during any period in which the Contractor may be in arrears in
1198 the advance payment of water rates due the United States. The Contractor shall not furnish water
1199 made available pursuant to this Contract for lands or parties which are in arrears in the advance
1200 payment of water rates levied or established by the Contractor.

1201 (c) With respect to subdivision (b) of this Article of this Contract, the Contractor
1202 shall have no obligation to require advance payment for water rates which it levies.

1203 COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

1204 24. (a) The Contractor shall comply with Title VI of the Civil Rights Act of 1964 (42
1205 U.S.C. 2000d), Section 504 of the Rehabilitation Act of 1975 (P.L. 93-112, as amended), the Age
1206 Discrimination Act of 1975 (42 U.S.C. 6101, et seq.) and any other applicable civil rights laws, as
1207 well as with their respective implementing regulations and guidelines imposed by the U.S.
1208 Department of the Interior and/or Bureau of Reclamation.

1209 (b) These statutes require that no person in the United States shall, on the grounds
1210 of race, color, national origin, handicap, or age, be excluded from participation in, be denied the
1211 benefits of, or be otherwise subjected to discrimination under any program or activity receiving
1212 financial assistance from the Bureau of Reclamation. By executing this Contract, the Contractor
1213 agrees to immediately take any measures necessary to implement this obligation, including permitting
1214 officials of the United States to inspect premises, programs, and documents.

1215 (c) The Contractor makes this agreement in consideration of and for the purpose
1216 of obtaining any and all Federal grants, loans, contracts, property discounts, or other Federal financial
1217 assistance extended after the date hereof to the Contractor by the Bureau of Reclamation, including
1218 installment payments after such date on account of arrangements for Federal financial assistance
1219 which were approved before such date. The Contractor recognizes and agrees that such Federal
1220 assistance will be extended in reliance on the representations and agreements made in this Article,
1221 and that the United States reserves the right to seek judicial enforcement thereof.

1222 PRIVACY ACT COMPLIANCE

1223 25. (a) The Contractor shall comply with the Privacy Act of 1974 (5 U.S.C. 552a) (the
1224 Act) and the Department of the Interior rules and regulations under the Act (43 CFR 2.45 et seq.) in
1225 maintaining Landholder acreage certification and reporting records, required to be submitted to the
1226 Contractor for compliance with Sections 206 and 228 of the Reclamation Reform Act of 1982 (96
1227 Stat. 1266), and pursuant to 43 CFR 426.18.

1228 (b) With respect to the application and administration of the criminal penalty
1229 provisions of the Act (5 U.S.C. 552a(i)), the Contractor and the Contractor's employees responsible
1230 for maintaining the certification and reporting records referenced in (a) above are considered to be
1231 employees of the Department of the Interior. See 5 U.S.C. 552a(m).

1232 (c) The Contracting Officer or a designated representative shall provide the
1233 Contractor with current copies of the Interior Department Privacy Act regulations and the Bureau of

1234 Reclamation Federal Register Privacy Act System of Records Notice (Acreage Limitation--Interior,
1235 Reclamation-31) which govern the maintenance, safeguarding, and disclosure of information
1236 contained in the Landholder's certification and reporting records.

1237 (d) The Contracting Officer shall designate a full-time employee of the Bureau of
1238 Reclamation to be the System Manager who shall be responsible for making decisions on denials
1239 pursuant to 43 CFR 2.61 and 2.64 amendment requests pursuant to 43 CFR 2.72. The Contractor is
1240 authorized to grant requests by individuals for access to their own records.

1241 (e) The Contractor shall forward promptly to the System Manager each proposed
1242 denial of access under 43 CFR 2.64; and each request for amendment of records filed under
1243 43 CFR 2.71; notify the requester accordingly of such referral; and provide the System Manager with
1244 information and records necessary to prepare an appropriate response to the requester. These
1245 requirements do not apply to individuals seeking access to their own certification and reporting forms
1246 filed with the Contractor pursuant to 43 CFR 426.18, unless the requester elects to cite the Privacy
1247 Act as a basis for the request.

1248 CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

1249 26. In addition to all other payments to be made by the Contractor pursuant to this
1250 Contract, the Contractor shall pay to the United States, within sixty (60) days after receipt of a bill
1251 and detailed statement submitted by the Contracting Officer to the Contractor for such specific items
1252 of direct cost incurred by the United States for work requested by the Contractor associated with this
1253 Contract plus indirect costs in accordance with applicable Bureau of Reclamation policies and
1254 procedures. All such amounts referred to in this Article of this Contract shall not exceed the amount
1255 agreed to in writing in advance by the Contractor. This Article of this Contract shall not apply to
1256 costs for routine contract administration.

1257 WATER CONSERVATION

1258 27. (a) Prior to the delivery of water provided from or conveyed through Federally
1259 constructed or Federally financed facilities pursuant to this Contract, the Contractor shall be
1260 implementing an effective water conservation and efficiency program based on the Contractor's water

1261 conservation plan that has been determined by the Contracting Officer to meet the conservation and
1262 efficiency criteria for evaluating water conservation plans established under Federal law. The water
1263 conservation and efficiency program shall contain definite water conservation objectives, appropriate
1264 economically feasible water conservation measures, and time schedules for meeting those objectives.
1265 Continued Project Water delivery pursuant to this Contract shall be contingent upon the Contractor's
1266 continued implementation of such water conservation program. In the event the Contractor's water
1267 conservation plan or any revised water conservation plan completed pursuant to subdivision (d) of
1268 this Article of this Contract have not yet been determined by the Contracting Officer to meet such
1269 criteria, due to circumstances which the Contracting Officer determines are beyond the control of the
1270 Contractor, water deliveries shall be made under this Contract so long as the Contractor diligently
1271 works with the Contracting Officer to obtain such determination at the earliest practicable date, and
1272 thereafter the Contractor immediately begins implementing its water conservation and efficiency
1273 program in accordance with the time schedules therein.

1274 (b) Omitted.

1275 (c) The Contractor shall submit to the Contracting Officer a report on the status of
1276 its implementation of the water conservation plan on the reporting dates specified in the then-existing
1277 conservation and efficiency criteria established under Federal law.

1278 (d) At five (5) -year intervals, the Contractor shall revise its water conservation
1279 plan to reflect the then-existing conservation and efficiency criteria for evaluating water conservation
1280 plans established under Federal law and submit such revised water management plan to the
1281 Contracting Officer for review and evaluation. The Contracting Officer will then determine if the

1282 water conservation plan meets Reclamation's then-existing conservation and efficiency criteria for
1283 evaluating water conservation plans established under Federal law.

1284 (e) If the Contractor is engaged in direct groundwater recharge, such activity shall
1285 be described in the Contractor's water conservation plan.

1286 EXISTING OR ACQUIRED WATER OR WATER RIGHTS

1287 28. Except as specifically provided in Article 18 of this Contract, the provisions of this
1288 Contract shall not be applicable to or affect non-project water or water rights now owned or hereafter
1289 acquired by the Contractor or any user of such water within the Contractor's Service Area. Any such
1290 water shall not be considered Project Water under this Contract. In addition, this Contract shall not
1291 be construed as limiting or curtailing any rights which the Contractor or any water user within the
1292 Contractor's Service Area acquires or has available under any other contract pursuant to Federal
1293 Reclamation law.

1294 OPERATION AND MAINTENANCE BY OPERATING NON-FEDERAL ENTITY

1295 29. (a) The O&M of a portion of the Project facilities which serve the Contractor, and
1296 responsibility for funding a portion of the costs of such O& M, have been transferred to the Operating
1297 Non-Federal Entity by separate agreement between the United States and the Operating Non-Federal
1298 Entity. That separate agreement shall not interfere with or affect the rights or obligations of the
1299 Contractor or the United States hereunder.

1300 (b) The Contracting Officer has previously notified the Contractor in writing that
1301 the O&M of a portion of the Project facilities which serve the Contractor has been transferred to the
1302 Operating Non-Federal Entity, and therefore, the Contractor shall pay directly to the Operating Non-

1303 Federal Entity, or to any successor approved by the Contracting Officer under the terms and
1304 conditions of the separate agreement between the United States and the Operating Non-Federal Entity
1305 described in subdivision (a) of this Article of this Contract, all rates, charges or assessments of any
1306 kind, including any assessment for reserve funds, which the Operating Non-Federal Entity or such
1307 successor determines, sets or establishes for (i) the O&M of the portion of the Project facilities
1308 operated and maintained by the Operating Non-Federal Entity or such successor, or (ii) the Friant
1309 Division's share of the operation, maintenance and replacement costs for physical works and
1310 appurtenances associated with the Tracy Pumping Plant, the Delta-Mendota Canal, the O'Neill
1311 Pumping/Generating Plant, the federal share of the O'Neill Forebay, the Mendota Pool, and the
1312 federal share of San Luis Unit joint use conveyance and conveyance pumping facilities. Such direct
1313 payments to the Operating Non-Federal Entity or such successor shall not relieve the Contractor of its
1314 obligation to pay directly to the United States the Contractor's share of the Project Rates, Charges,
1315 and Tiered Pricing Components except to the extent the Operating Non-Federal Entity collects
1316 payments on behalf of the United States in accordance with the separate agreement identified in
1317 subdivision (a) of this Article of this Contract.

1318 (c) For so long as the O&M of any portion of the Project facilities serving the
1319 Contractor is performed by the Operating Non-Federal Entity, or any successor thereto, the
1320 Contracting Officer shall adjust those components of the Rates for Water Delivered under this
1321 Contract representing the cost associated with the activity being performed by the Operating Non-
1322 Federal Entity or its successor.

1323 (d) In the event the O&M of the Project facilities operated and maintained by the
1324 Operating Non-Federal Entity is re-assumed by the United States during the term of this Contract, the
1325 Contracting Officer shall so notify the Contractor, in writing, and present to the Contractor a revised
1326 Exhibit "B" which shall include the portion of the Rates to be paid by the Contractor for Project
1327 Water under this Contract representing the O &M costs of the portion of such Project facilities which
1328 have been re-assumed. The Contractor shall, thereafter, in the absence of written notification from
1329 the Contracting Officer to the contrary, pay the Rates, Charges, and Tiered Pricing Component(s)
1330 specified in the revised Exhibit "B" directly to the United States in compliance with Article 7 of this
1331 Contract.

1332 CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

1333 30. The expenditure or advance of any money or the performance of any obligation of the
1334 United States under this Contract shall be contingent upon appropriation or allotment of funds.
1335 Absence of appropriation or allotment of funds shall not relieve the Contractor from any obligations
1336 under this Contract. No liability shall accrue to the United States in case funds are not appropriated
1337 or allotted.

1338 BOOKS, RECORDS, AND REPORTS

1339 31. (a) The Contractor shall establish and maintain accounts and other books and
1340 records pertaining to administration of the terms and conditions of this Contract, including: the
1341 Contractor's financial transactions, water supply data, and Project land and right-of-way agreements;
1342 the water users' land-use (crop census), land ownership, land-leasing and water use data; and other
1343 matters that the Contracting Officer may require. Reports thereon shall be furnished to the
1344 Contracting Officer in such form and on such date or dates as the Contracting Officer may require.
1345 Subject to applicable Federal laws and regulations, each party to this Contract shall have the right
1346 during office hours to examine and make copies of the other party's books and records relating to
1347 matters covered by this Contract.

1348 (b) Notwithstanding the provisions of subdivision (a) of this Article of this
1349 Contract, no books, records, or other information shall be requested from the Contractor by the

1350 Contracting Officer unless such books, records, or information are reasonably related to the
1351 administration or performance of this Contract. Any such request shall allow the Contractor a
1352 reasonable period of time within which to provide the requested books, records, or information.

1353 (c) At such time as the Contractor provides information to the Contracting Officer
1354 pursuant to subdivision (a) of this Article of this Contract, a copy of such information shall be
1355 provided to the Operating Non-Federal Entity.

1356 ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED

1357 32. (a) The provisions of this Contract shall apply to and bind the successors and
1358 assigns of the parties hereto, but no assignment or transfer of this Contract or any right or interest
1359 therein shall be valid until approved in writing by the Contracting Officer.

1360 (b) The assignment of any right or interest in this Contract by either party shall not
1361 interfere with the rights or obligations of the other party to this Contract absent the written
1362 concurrence of said other party.

1363 (c) The Contracting Officer shall not unreasonably condition or withhold approval
1364 of any proposed assignment.

1365 SEVERABILITY

1366 33. In the event that a person or entity who is neither (i) a party to a Project contract, nor
1367 (ii) a person or entity that receives Project Water from a party to a Project contract, nor (iii) an
1368 association or other form of organization whose primary function is to represent parties to Project
1369 contracts, brings an action in a court of competent jurisdiction challenging the legality or
1370 enforceability of a provision included in this Contract and said person, entity, association, or
1371 organization obtains a final court decision holding that such provision is legally invalid or

1372 unenforceable and the Contractor has not intervened in that lawsuit in support of the plaintiff(s), the
1373 parties to this Contract shall use their best efforts to (i) within thirty (30) days of the date of such final
1374 court decision identify by mutual agreement the provisions in this Contract which must be revised
1375 and (ii) within three (3) months thereafter promptly agree on the appropriate revision(s). The time
1376 periods specified above may be extended by mutual agreement of the parties. Pending the
1377 completion of the actions designated above, to the extent it can do so without violating any applicable
1378 provisions of law, the United States shall continue to make the quantities of Project Water specified
1379 in this Contract available to the Contractor pursuant to the provisions of this Contract which were not
1380 found to be legally invalid or unenforceable in the final court decision.

1381 RESOLUTION OF DISPUTES

1382 34. Should any dispute arise concerning any provisions of this Contract, or the parties'
1383 rights and obligations thereunder, the parties shall meet and confer in an attempt to resolve the
1384 dispute. Prior to the Contractor commencing any legal action, or the Contracting Officer referring
1385 any matter to Department of Justice, the party shall provide to the other party thirty (30) days written
1386 notice of the intent to take such action; Provided, That such notice shall not be required where a delay
1387 in commencing an action would prejudice the interests of the party that intends to file suit. During
1388 the thirty (30) day notice period, the Contractor and the Contracting Officer shall meet and confer in
1389 an attempt to resolve the dispute. Except as specifically provided, nothing herein is intended to
1390 waive or abridge any right or remedy that the Contractor or the United States may have.

1391 OFFICIALS NOT TO BENEFIT

1392 35. No Member of or Delegate to Congress, Resident Commissioner, or official of the
1393 Contractor shall benefit from this Contract other than as a water user or landowner in the same
1394 manner as other water users or landowners.

1395 CHANGES IN CONTRACTOR'S SERVICE AREA

1396 36. (a) While this Contract is in effect, no change may be made in the Contractor's
1397 Service Area or boundaries, by inclusion or exclusion of lands, dissolution, consolidation, merger, or
1398 otherwise, except upon the Contracting Officer's written consent.

1399 (b) Within thirty (30) days of receipt of a request for such a change, the
1400 Contracting Officer will notify the Contractor of any additional information required by the
1401 Contracting Officer for processing said request, and both parties will meet to establish a mutually
1402 agreeable schedule for timely completion of the process. Such process will analyze whether the
1403 proposed change is likely to: (i) result in the use of Project Water contrary to the terms of this
1404 Contract; (ii) impair the ability of the Contractor to pay for Project Water furnished under this
1405 Contract or to pay for any Federally-constructed facilities for which the Contractor is responsible;
1406 and (iii) have an impact on any Project Water rights applications, permits, or licenses. In addition,
1407 the Contracting Officer shall comply with the National Environmental Policy Act and the Endangered
1408 Species Act. The Contractor will be responsible for all costs incurred by the Contracting Officer in
1409 this process, and such costs will be paid in accordance with Article 26 of this Contract.

1410 FEDERAL LAWS

1411 37. By entering into this Contract, the Contractor does not waive its rights to contest the
1412 validity or application in connection with the performance of the terms and conditions of this
1413 Contract of any Federal law or regulation; Provided, That the Contractor agrees to comply with the

1414 terms and conditions of this Contract unless and until relief from application of such Federal law or
1415 regulation to the implementing provision of the Contract is granted by a court of competent
1416 jurisdiction.

1417 EMERGENCY RESERVE FUND

1418 38. The Contractor and Contracting Officer acknowledge that the requirements to
1419 establish and maintain a minimum reserve fund account to finance extraordinary O&M costs of
1420 Friant Division Facilities is and will continue to be administered under Contract No. 8-07-20-X0356
1421 titled Agreement To Transfer The Operation, Maintenance And Replacement And Certain Financial
1422 And Administrative Activities Related To The Friant-Kern Canal And Associated Works, dated
1423 March 1, 1998 as amended, supplemented, assigned, or renewed.

1424 MEDIUM FOR TRANSMITTING PAYMENT

1425 39. (a) All payments from the Contractor to the United States under this contract
1426 shall be by the medium requested by the United States on or before the date payment is due. The
1427 required method of payment may include checks, wire transfers, or other types of payment specified
1428 by the United States.

1429 (b) Upon execution of the contract, the Contractor shall furnish the Contracting
1430 Officer with the Contractor's taxpayer's identification number (TIN). The purpose for requiring the
1431 Contractor's TIN is for collecting and reporting any delinquent amounts arising out of the
1432 Contractor's relationship with the United States.

1433 NOTICES

1434 40. Any notice, demand, or request authorized or required by this Contract shall be
1435 deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or delivered
1436 to the Area Manager, South-Central California Area Office, 1243 "N" Street, Fresno, California
1437 93721, and on behalf of the United States, when mailed, postage prepaid, or delivered to the Board of
1438 Directors of Porterville Irrigation District, 22086 Avenue 160, Porterville, California 93257. The
1439 designation of the addressee or the address may be changed by notice given in the same manner as
1440 provided in this Article of this Contract for other notices.

1441 CONFIRMATION OF CONTRACT

1442 41. The Contractor, after the execution of this Contract, shall promptly provide to the
1443 Contracting Officer a decree of a court of competent jurisdiction of the State of California,
1444 confirming the execution of this Contract. The Contractor shall furnish the United States a certified
1445 copy of the final decree, the validation proceedings, and all pertinent supporting records of the court
1446 approving and confirming this Contract, and decreeing and adjudging it to be lawful, valid, and
1447 binding on the Contractor.

1448 CONTRACT DRAFTING CONSIDERATIONS

1449 42. Articles 1 through 15, subdivision (c) of Article 16, Articles 18 through 20,
1450 subdivision (c) of Article 23, Articles 26 through 29, subdivisions (b) and (c) of Article 31,
1451 subdivisions (b) and (c) of Article 32, Articles 33 through 34, subdivision (b) of Article 36, and
1452 Articles 37 through 38 of this Contract have been drafted, negotiated, and reviewed by the parties
1453 hereto, each of whom is sophisticated in the matters to which this Contract pertains, and no one party
1454 shall be considered to have drafted the stated Articles.
1455

1456 IN WITNESS WHEREOF, the parties hereto have executed this Contract as of the day and
1457 year first above written.

THE UNITED STATES OF AMERICA

By: _____
Regional Director, Mid-Pacific Region
Bureau of Reclamation

PORTERVILLE IRRIGATION DISTRICT

By: _____
TITLE OF AUTHORIZED SIGNATORY

Attest:

By: _____
TITLE

EXHIBIT A

Map or Description of Service Area

EXHIBIT B
PORTERVILLE IRRIGATION DISTRICT
2010 Rates and Charges
(Per Acre-Foot)

	Irrigation	Irrigation	Other¹
	Water	Water	Water
	Class 1	Class 2	
COST-OF-SERVICE (COS) RATES			
O&M Components			
Water Marketing	\$6.01	\$6.01	
Storage	\$6.57		
Conveyance ²			
TOTAL COS (Tier 1 Rate)	\$12.58	\$6.01	
IRRIGATION FULL-COST RATE (RRA)			
Section 202(3) Rate is applicable to a Qualified Recipient or to a Limited Recipient receiving irrigation water on or before October 1, 1981.	\$35.03	\$15.42	
Section 205(a)(3) Rate is applicable to a Limited Recipient that did not receive irrigation water on or before October 1, 1981.	\$41.18	\$19.63	
TIERED PRICING COMPONENTS (In Addition to Total COS Rate Above)			
IRRIGATION			
<i>Tier 2 Rate</i> : >80% <=90% of Contract Total [Section 202(3) Irrigation Full-Cost Rate - COS Rate]/2 (Amount to be added to Tier 1 Rate)	\$11.23	\$4.71	
<i>Tier 3 Rate</i> : >90% of Contract Total [Section 202(3) Irrigation Full-Cost Rate - COS Rate] (Amount to be added to Tier 1 Rate)	\$22.45	\$9.41	
CHARGES AND ASSESSMENTS (Payments in addition to Rates)			
P.L. 102-575 Surcharges ³			
Restoration Fund Payments [Section 3407(d)(2)(A)]	\$9.11	\$9.11	
Friant Surcharge [Section 3406(c)(1)]	\$7.00	\$7.00	
P.L. 106-377 Assessment (Trinity Public Utilities District) ⁴ [Appendix B, Section 203]	\$0.11	\$0.11	

EXPLANATORY NOTES

EXHIBIT B
PORTERVILLE IRRIGATION DISTRICT
2010 Rates and Charges
(Per Acre-Foot)

- 1 The Contractor has not projected any delivery of Other Water for the 2010 contract year. A temporary rate will be applied upon any Other Water delivery.
- 2 Conveyance and Conveyance Pumping operation and maintenance costs were removed for ratesetting purposes and are to be direct billed.
- 3 The surcharges were determined pursuant to Tital XXXIV of P.L. 102-575. Restoration Fund surcharges under P.L. 102-575 are determined on a fsical basis (10/1-9/30).
- 4 The Trinity Public Utilities District Assessment is applicable to each acre-foot of water delivered from 3/1/2010 to 2/28/2011 and is adjusted annually.

Additional detail of rate components is available on the Internet at

<http://www.usbr.gov/mp/cvpwaterrates/ratebooks/index.html>

Exhibit C-1

Repayment Obligation - Lump Sum Option

Friant Contractor:

Porterville ID

San Joaquin River Restoration Act

Existing Capital Obligation (Article 1(m))	\$	5,367,395.37
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Irrigation portion of Existing Capital Obligation	\$	5,367,395.37
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20yr CMT as of : **10/01/10** **4.050%**

Discount Rate (1/2 20yr CMT) **2.025%**

Discounted Irrigation Capital	\$	4,377,661.86
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Non-Discounted M&I Portion of Existing Capital Obligation

\$	-
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Repayment Obligation - Lump Sum Option (per Article 7(a)(2)(A))	\$	4,377,661.86
---	----	--------------

Year	Irrigation Portion of Allocated Capital Cost	
	Beginning Balance	Straight Line Repayment
	2011	\$ 5,367,395
2012	\$ 5,099,026	\$ 268,370
2013	\$ 4,830,656	\$ 268,370
2014	\$ 4,562,286	\$ 268,370
2015	\$ 4,293,916	\$ 268,370
2016	\$ 4,025,547	\$ 268,370
2017	\$ 3,757,177	\$ 268,370
2018	\$ 3,488,807	\$ 268,370
2019	\$ 3,220,437	\$ 268,370
2020	\$ 2,952,067	\$ 268,370
2021	\$ 2,683,698	\$ 268,370
2022	\$ 2,415,328	\$ 268,370
2023	\$ 2,146,958	\$ 268,370
2024	\$ 1,878,588	\$ 268,370
2025	\$ 1,610,219	\$ 268,370
2026	\$ 1,341,849	\$ 268,370
2027	\$ 1,073,479	\$ 268,370
2028	\$ 805,109	\$ 268,370
2029	\$ 536,740	\$ 268,370
2030	\$ 268,370	\$ 268,370
		\$ 5,367,395

Exhibit C-2

Repayment Obligation - Installment Payment Option

Priority Contractor: Porterville ID

Existing Capital Obligation (Article 1(m)) \$ 5,367,395.37

Irrigation Portion of Existing Capital Obligation \$ 5,367,395.37

20yr CMT - 10/1/2010 **4.050%**
Discount Rate (1/2 20yr CMT) **2.025%**

Non-Discounted M&I Existing Capital Obligation \$ -

Installment Schedule

		Non-discounted	
	Irrigation Portion of	M&I Portion of	
	Repayment	Existing Capital	Repayment
Payment Due Date	Obligation	Obligation	Obligation
1st Installment	5/1/2011	\$ 1,127,113.08	\$ - \$ 1,127,113.08
2nd Installment	5/1/2012	\$ 1,126,602.44	\$ - \$ 1,126,602.44
3rd Installment	5/1/2013	\$ 1,127,409.94	\$ - \$ 1,127,409.94
4th Installment	1/31/2014	\$ 1,129,113.59	\$ - \$ 1,129,113.59
Total Repayment Obligation - Installment Option (per Article 7(a)(2)(A)):		\$ 4,510,239.05	\$ - \$ 4,510,239.05

Year	Irrigation Portion of Allocated Capital Cost		Discounted Capital Amount			
	Beginning Balance	Straight Line Repayment	\$1,127,113.08	\$1,126,602.44	\$1,127,409.94	\$1,129,113.59
2011	\$ 5,367,395	\$ 268,370	\$ 268,370			
2012	\$ 5,099,026	\$ 268,370	\$ 56,358	\$ 212,012		
2013	\$ 4,830,656	\$ 268,370	\$ 56,358	\$ 62,664	\$ 149,348	
2014	\$ 4,562,286	\$ 268,370	\$ 56,358	\$ 62,664	\$ 70,179	\$ 79,169
2015	\$ 4,293,916	\$ 268,370	\$ 56,358	\$ 62,664	\$ 70,179	\$ 79,169
2016	\$ 4,025,547	\$ 268,370	\$ 56,358	\$ 62,664	\$ 70,179	\$ 79,169
2017	\$ 3,757,177	\$ 268,370	\$ 56,358	\$ 62,664	\$ 70,179	\$ 79,169
2018	\$ 3,488,807	\$ 268,370	\$ 56,358	\$ 62,664	\$ 70,179	\$ 79,169
2019	\$ 3,220,437	\$ 268,370	\$ 56,358	\$ 62,664	\$ 70,179	\$ 79,169
2020	\$ 2,952,067	\$ 268,370	\$ 56,358	\$ 62,664	\$ 70,179	\$ 79,169
2021	\$ 2,683,698	\$ 268,370	\$ 56,358	\$ 62,664	\$ 70,179	\$ 79,169
2022	\$ 2,415,328	\$ 268,370	\$ 56,358	\$ 62,664	\$ 70,179	\$ 79,169
2023	\$ 2,146,958	\$ 268,370	\$ 56,358	\$ 62,664	\$ 70,179	\$ 79,169
2024	\$ 1,878,588	\$ 268,370	\$ 56,358	\$ 62,664	\$ 70,179	\$ 79,169
2025	\$ 1,610,219	\$ 268,370	\$ 56,358	\$ 62,664	\$ 70,179	\$ 79,169
2026	\$ 1,341,849	\$ 268,370	\$ 56,358	\$ 62,664	\$ 70,179	\$ 79,169
2027	\$ 1,073,479	\$ 268,370	\$ 56,358	\$ 62,664	\$ 70,179	\$ 79,169
2028	\$ 805,109	\$ 268,370	\$ 56,358	\$ 62,664	\$ 70,179	\$ 79,169
2029	\$ 536,740	\$ 268,370	\$ 56,358	\$ 62,664	\$ 70,179	\$ 79,169
2030	\$ 268,370	\$ 268,370	\$ 56,358	\$ 62,664	\$ 70,179	\$ 79,169
	\$ 5,367,395	\$ 5,367,395	\$ 1,339,165	\$ 1,339,970	\$ 1,342,386	\$ 1,345,874

Exhibit D

Friant Surcharge Reduction Calculation

**Friant Contractor:
San Joaquin River Restoration Act**

Porterville ID

Average Annual Delivery - Forecasted for 2020-2039*	17,800
Total Projected deliveries (over 20 yr period)**	356,000
Article 7(c)	356,000
20 yr CMT as of 10/1/2010	4.050%
1/2 20 yr CMT as of 10/1/2010	2.025%
Irrigation Portion of Existing Capital Obligation	\$5,367,395
NPV at Half CMT (Repayment Obligation)	\$4,377,662
NPV at Full CMT	\$3,631,138
Financing Cost Offset: @ (Article 7(c)(1))	\$746,524
NPV of FS Reduction	\$505,442
Difference between Financing Cost Offset and NPV of FS Reduction	\$241,082
2020 Other Obligation Credit (FV of difference) (Art. 7(c)(2))***	\$344,622

Year	CVPIA Friant				Reduction in Friant Surcharge			
	Irrigation portion of Allocated Capital Cost			Surcharges	Friant			2020 Other
	Beginning Balance	Straight Line Repayment	Surcharge per Acre- Foot Before Reduction	Friant Reduction per Article 7(c)(1)	Friant Surcharge due per A/F after Reduction	Projected Total Annual Credit	Calculation (Art. 7(c)(2))	
2011	\$ 5,367,395	\$ 268,370	\$7.00		\$7.00	0	\$ 241,081.68	
2012	\$ 5,099,026	\$ 268,370	\$7.00		\$7.00	0	\$ 250,845.48	
2013	\$ 4,830,656	\$ 268,370	\$7.00		\$7.00	0	\$ 261,004.73	
2014	\$ 4,562,286	\$ 268,370	\$7.00		\$7.00	0	\$ 271,575.42	
2015	\$ 4,293,916	\$ 268,370	\$7.00		\$7.00	0	\$ 282,574.22	
2016	\$ 4,025,547	\$ 268,370	\$7.00		\$7.00	0	\$ 294,018.48	
2017	\$ 3,757,177	\$ 268,370	\$7.00		\$7.00	0	\$ 305,926.23	
2018	\$ 3,488,807	\$ 268,370	\$7.00		\$7.00	0	\$ 318,316.24	
2019	\$ 3,220,437	\$ 268,370	\$7.00		\$7.00	0	\$ 331,208.05	
2020	\$ 2,952,067	\$ 268,370	\$7.00	(\$3.00)	\$ 4.00	(\$53,400)	\$ 344,621.97	
2021	\$ 2,683,698	\$ 268,370	\$7.00	(\$3.00)	\$ 4.00	(\$53,400)		
2022	\$ 2,415,328	\$ 268,370	\$7.00	(\$3.00)	\$ 4.00	(\$53,400)		
2023	\$ 2,146,958	\$ 268,370	\$7.00	(\$3.00)	\$ 4.00	(\$53,400)		
2024	\$ 1,878,588	\$ 268,370	\$7.00	(\$3.00)	\$ 4.00	(\$53,400)		
2025	\$ 1,610,219	\$ 268,370	\$7.00	(\$3.00)	\$ 4.00	(\$53,400)		
2026	\$ 1,341,849	\$ 268,370	\$7.00	(\$3.00)	\$ 4.00	(\$53,400)		
2027	\$ 1,073,479	\$ 268,370	\$7.00	(\$3.00)	\$ 4.00	(\$53,400)		
2028	\$ 805,109	\$ 268,370	\$7.00	(\$3.00)	\$ 4.00	(\$53,400)		
2029	\$ 536,740	\$ 268,370	\$7.00	(\$3.00)	\$ 4.00	(\$53,400)		
2030	\$ 268,370	\$ 268,370	\$7.00	(\$3.00)	\$ 4.00	(\$53,400)		
2031			\$7.00	(\$3.00)	\$ 4.00	(\$53,400)		
2032			\$7.00	(\$3.00)	\$ 4.00	(\$53,400)		
2033			\$7.00	(\$3.00)	\$ 4.00	(\$53,400)		
2034			\$7.00	(\$3.00)	\$ 4.00	(\$53,400)		
2035			\$7.00	(\$3.00)	\$ 4.00	(\$53,400)		
2036			\$7.00	(\$3.00)	\$ 4.00	(\$53,400)		
2037			\$7.00	(\$3.00)	\$ 4.00	(\$53,400)		
2038			\$7.00	(\$3.00)	\$ 4.00	(\$53,400)		
2039			\$7.00	(\$3.00)	\$ 4.00	(\$53,400)		
	\$ 5,367,395					(\$1,068,000)		

Exhibit D

Friant Surcharge Reduction Calculation

Footnotes

* Average annual delivery forecast indicated above is a mutually agreed upon estimate of deliveries during the period 2020-2039 for purposes of calculating the Friant Surcharge reduction and related credits only.

** This figure represents the total cumulative deliveries the reduced surcharge is applicable to, but not beyond 2039. If cumulative actual deliveries exceed this amount prior to 2039, the full Friant Surcharge is applicable to deliveries in excess of this amount.

*** The difference represents the amount of financing costs that are not offset through the reduced Friant Surcharge computed on this schedule. Pursuant to Section 7(c)(2), this amount shall offset the Contractor's other outstanding or future obligations. After 2020, the contractor's other obligations shall be reduced in the following order to fully offset this amount: 1) Payments or prepayments due for O&M expenses and, to the extent applicable, 2) Additional Capital Obligation.

@ Amount of reduction in Friant Surcharge is computed using FPV of Financing Costs adjusted to Yr 2020. Annual Friant Surcharge reduction to fully offset Financing costs is computed and presented on per a/f basis. Friant surcharge may be reduced up to \$3 per a/f.

Friant Surcharge (FS) Reduction Calculations

FV of Total Financing Cost for Offset	\$	1,110,362
Annual Credit Target	\$	(78,870)
FS Reduction w/o limit	\$	(4.43)
FS Reduction limit	\$	(3.00)

EXHIBIT E

Restated Contract¹

Irrigation and Other

Contract No. I75r-4309D

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
Central Valley Project, California

CONTRACT BETWEEN THE UNITED STATES
AND
PORTERVILLE IRRIGATION DISTRICT
PROVIDING FOR PROJECT WATER SERVICE FROM
FRIANT DIVISION AND
FOR FACILITIES REPAYMENT

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14	Omitted	

¹ Pursuant to subdivision (b) of Article 2 of the Contract to which this exhibit is attached, this Exhibit "E" makes no substantive revisions to the Contract to which it is attached and is prepared solely as a matter of administrative convenience. In this Exhibit "E", references to "Contract" or "this Contract" refers to this Restated Contract.

15	Acreage Limitation
16	Compliance With Federal Reclamation Laws
17	Protection of Water and Air Quality
18	Water Acquired By the Contractor Other Than From the United States
19	Opinions and Determinations
20	Coordination and Cooperation
21	Charges for Delinquent Payments
22	Equal Employment Opportunity
23	General Obligation--Benefits Conditioned Upon Payment
24	Compliance with Civil Rights Laws and Regulations
25	Omitted
26	Contractor to Pay Certain Miscellaneous Costs
27	Water Conservation
28	Existing or Acquired Water or Water Rights
29	Operation and Maintenance by Operating Non-Federal Entity
30	Contingent on Appropriation or Allotment of Funds
31	Books, Records, and Reports
32	Assignment Limited--Successors and Assigns Obligated
33	Severability
34	Resolution of Disputes
35	Officials Not to Benefit
36	Changes in Contractor's Service Area
37	Federal Laws
38	Emergency Reserve Fund
39	Medium for Transmitting Payment
40	Notices
41	Confirmation of Contract
42	Contract Drafting Considerations

Signature Page

Exhibit A	Contractor's Map or Description of Service Area
Exhibit B	Rates and Charges
Exhibit C-1	Repayment Schedule – Lump Sum Option
Exhibit C-2	Repayment Schedule – Installment Option
Exhibit D	Computation of the Friant Surcharge
Exhibit E	Omitted

1 UNITED STATES
2 DEPARTMENT OF THE INTERIOR
3 BUREAU OF RECLAMATION
4 Central Valley Project, California

5 CONTRACT BETWEEN THE UNITED STATES
6 AND
7 PORTERVILLE IRRIGATION DISTRICT
8 PROVIDING FOR PROJECT WATER SERVICE
9 FROM FRIANT DIVISION AND
10 FACILITIES REPAYMENT

11 THIS CONTRACT, made this _____ day of _____, 2010, is entered into
12 pursuant to the Act of June 17, 1902, (32 Stat. 388), and acts amendatory or supplementary thereto,
13 including but not limited to: the Act of August 26, 1937 (50 Stat. 844), as amended and
14 supplemented, August 4, 1939 (53 Stat. 1187), as amended and supplemented, July 2, 1956 (70 Stat.
15 483), June 21, 1963 (77 Stat. 68), October 12, 1982 (96 Stat. 1262), October 27, 1986 (100 Stat.
16 3050), as amended, Title XXXIV of the Act of October 30, 1992 (106 Stat. 4706), and Title X,
17 Subtitle A, of the Act of March 30, 2009 (123 Stat. 1349), also referred to as the San Joaquin River
18 Restoration Settlement Act hereinafter referred to as SJRRSA, all collectively hereinafter referred to
19 as Federal Reclamation law, between THE UNITED STATES OF AMERICA, hereinafter referred to
20 as the United States and PORTERVILLE IRRIGATION DISTRICT, hereinafter referred to as the
21 Contractor, a public agency of the State of California, duly organized, existing, and acting pursuant to
22 the laws thereof, with its principal place of business in California;

23 WITNESSETH, That

24 EXPLANATORY RECITALS

25 [1st] WHEREAS, the United States has constructed and is operating the Central Valley
26 Project, California, for diversion, storage, carriage, distribution and beneficial use, for flood control,

27 irrigation, municipal, domestic, industrial, fish and wildlife mitigation, protection and restoration,
28 generation and distribution of electric energy, salinity control, navigation and other beneficial uses, of
29 waters of the Sacramento River, the American River, the Trinity River, and the San Joaquin River
30 and their tributaries; and

31 [2nd] WHEREAS, the United States constructed Friant Dam (thereby creating Millerton
32 Lake) and the Friant-Kern and Madera Canals, hereinafter collectively referred to as the Friant
33 Division Facilities, which will be used in part for the furnishing of water to the Contractor pursuant to
34 the terms of this Contract; and

35 [3rd] WHEREAS, the United States and the Contractor entered into Contract Number I75r-
36 4309 as amended, which established terms for the delivery to the Contractor of Project Water from
37 the Friant Division from January 28, 1952 through February 29, 1992; and

38 [4th] WHEREAS, the Contractor and the United States have entered into a renewal
39 contract and, pursuant to subsection 3404(c)(1) of the Central Valley Project Improvement Act
40 (CVPIA), subsequently entered into an interim renewal contract(s), identified as Contract Number (s)
41 I75r-4309R and I75r-4309-IR1, which provided for the continued water service to Contractor from
42 March 1, 1992 through February 28, 2001, and subsequently entered into a long-term renewal
43 contract identified as Contract Number I75r-4309-LTR1, which provided for continued water service
44 to Contractor through February 28, 2026, which was amended January 18, 2007, and is herein
45 referred to as the "Existing Contract"; and

46 [5th] WHEREAS, pursuant to Section 8 of the Act of June 17, 1902 (32 Stat. 388), the
47 United States has acquired water rights and other rights to the flows of the San Joaquin River,

48 including without limitation the permits issued as the result of Decision 935 by the California State
49 Water Resource Control Board and the contracts described in subdivision (n) of Article 3 of this
50 Contract, pursuant to which the Contracting Officer develops, diverts, stores and delivers Project
51 Water stored or flowing through Millerton Lake in accordance with State and Federal law for the
52 benefit of Project Contractors in the Friant Division and for other specified Project purposes; and

53 [6th] WHEREAS, the water supplied to the Contractor pursuant to this Contract is Project
54 Water developed through the exercise of the rights described in the fifth (5th) Explanatory Recital of
55 this Contract; and

56 [7th] WHEREAS, as a result of litigation entitled “Natural Resources Defense Council, et
57 al. v Kirk Rogers, et al.” No. CIV-S-88-1658LLK/GGH, certain contractors from the Friant Division
58 entered into a Stipulation of Settlement dated September 13, 2006, (the “Settlement”), which
59 settlement prescribes a Restoration Goal and a Water Management Goal and which Settlement was
60 subsequently confirmed and implemented through the SJRRSA; and

61 [8th] WHEREAS, the SJRRSA authorizes and directs the Secretary to convert the Existing
62 Contract to a repayment contract under subsection (d) of Section 9 of the Act of August 4, 1939, no
63 later than December 31, 2010, and further directs that such contract shall require the accelerated
64 repayment of the Contractors’ allocated share of construction costs, either as a lump sum payment by
65 January 31, 2011 or in annual installments by January 31, 2014, which funds will in turn be made
66 available for implementation of the Settlement and SJRRSA, and which costs otherwise would have
67 been payable through annual water rates, with full repayment by 2030; and

68 [9th] WHEREAS, such repayment of costs will assist the United States with
69 implementation of actions required under the Settlement and the SJRRSA and provide the Contractor
70 the benefits provided in Section 10010 of the SJRRSA; and

71 [10th] WHEREAS, subsection (4) of Section 1 of the Act of July 2, 1956 (1956 Act) directs
72 the Secretary to provide that the other party to any contract entered into pursuant to subsection (d) of
73 Section 9 of the Act of August 4, 1939 (repayment contract) or pursuant to subsection (e) of Section 9
74 of the Act of August 4, 1939 (water service contract) shall “have the first right (to which the rights of
75 the holders of any other type of irrigation water contract shall be subordinate) to a stated share or
76 quantity of the project’s available water supply for beneficial use on the irrigable lands within the
77 boundaries of, or owned by, the party and a permanent right to such share or quantity upon
78 completion of payment of the amount assigned for ultimate return” by the contractor subject to
79 fulfillment of all obligations under the contract; and

80 [11th] WHEREAS, among other things, this Contract includes provisions granting the
81 Contractor the permanent right described in the tenth (10th) Explanatory Recital; and

82 [12th] WHEREAS, the Contractor has demonstrated to the satisfaction of the Contracting
83 Officer that the Contractor has utilized the Project Water supplies available to it for reasonable and
84 beneficial use and/or has demonstrated projected future demand for water use such that the
85 Contractor has the capability and expects to utilize fully for reasonable and beneficial use the quantity
86 of Project Water to be made available to it pursuant to this Contract; and

87 [13th] WHEREAS, water obtained from the Central Valley Project has been relied upon by
88 urban and agricultural areas within California for more than fifty (50) years and is considered by the
89 Contractor as an essential portion of its water supply; and

90 [14th] WHEREAS, the economies of regions within the Central Valley Project, including the
91 Contractor's, depend upon the continued availability of water, including water service from the
92 Central Valley Project; and

93 [15th] WHEREAS, the Secretary intends through coordination, cooperation, and partnerships
94 to pursue measures to improve water supply, water quality, and reliability of the Project for all
95 Project purposes; and

96 [16th] WHEREAS, the mutual goals of the United States and the Contractor include: to
97 provide for reliable Project Water supplies; to control costs of those supplies; to achieve repayment of
98 the Central Valley Project as required by law; to guard reasonably against Project Water shortages; to
99 achieve a reasonable balance among competing demands for use of Project Water; and to comply
100 with all applicable environmental statutes, all consistent with the legal obligations of the United
101 States relative to the Central Valley Project; and

102 [17th] WHEREAS, any time during the Year the Contracting Officer determines that a need
103 exists to evacuate water from Millerton Lake in order to prevent or minimize spill or to meet flood
104 control criteria (currently referred to as "uncontrolled season"), taking into consideration, among
105 other things, anticipated upstream reservoir operations and the most probable forecast of snowmelt
106 and runoff projections for the upper San Joaquin River, Friant Division Project Contractors utilize a
107 portion of their undependable Class 2 Water in their service areas to, among other things, assist in the

108 management and alleviation of groundwater overdraft in the Friant Division service area, provide
109 opportunities for restoration of the San Joaquin River below Friant Dam, minimize flooding along the
110 San Joaquin River, encourage optimal water management, and maximize the reasonable and
111 beneficial use of the water; and

112 [18th] WHEREAS, the parties desire and intend that this Contract not provide a disincentive
113 to the Friant Division Project Contractors continuing to carry out the beneficial activities set out in
114 the Explanatory Recital immediately above; and

115 [19th] WHEREAS, the United States has determined that the Contractor has fulfilled all of
116 its obligations under the Existing Contract.

117 NOW, THEREFORE, in consideration of the mutual and dependent covenants herein
118 contained, it is hereby mutually agreed by the parties hereto as follows:

119 DEFINITIONS

120 1. When used herein, unless otherwise distinctly expressed or manifestly incompatible
121 with the intent of the parties as expressed in this Contract, the term:

122 (a) “Additional Capital Obligation” shall mean any additional construction costs
123 or other capitalized costs incurred after the effective date of this Contract or not reflected in the
124 Existing Capital Obligation as provided in Section 10010(a)(3)(B) of the SJRRSA and any amounts
125 payable by Contractor as determined through the final adjustment described and required by Section
126 10010(b) of the SJRRSA;

127 (b) “Calendar Year” shall mean the period January 1 through December 31, both
128 dates inclusive;

129 (c) "Charges" shall mean the payments required by Federal Reclamation law in
130 addition to the Rates specified in this Contract as determined annually by the Contracting Officer
131 pursuant to this Contract and consistent with the SJRRSA;

132 (d) "Class 1 Water" shall mean that supply of water stored in or flowing through
133 Millerton Lake which, subject to the contingencies hereinafter described in Articles 3, 12, and 13 of
134 this Contract, will be available for delivery from Millerton Lake and the Friant-Kern and Madera
135 Canals as a dependable water supply during each Year;

136 (e) "Class 2 Water" shall mean that supply of water which can be made available
137 subject to the contingencies hereinafter described in Articles 3, 12, and 13 of this Contract for
138 delivery from Millerton Lake and the Friant-Kern and Madera Canals in addition to the supply of
139 Class 1 Water. Because of its uncertainty as to availability and time of occurrence, such water will
140 be undependable in character and will be furnished only if, as, and when it can be made available as
141 determined by the Contracting Officer;

142 (f) "Condition of Shortage" shall mean a condition respecting the Project during
143 any Year such that the Contracting Officer is unable to deliver sufficient water to meet the Contract
144 Total;

145 (g) "Contracting Officer" shall mean the Secretary of the Interior's duly
146 authorized representative acting pursuant to this Contract or applicable Federal Reclamation law or
147 regulation;

148 (h) "Contract Total" shall mean the maximum amount of Class 1 Water plus the
149 maximum amount of Class 2 Water specified in subdivision (a) of Article 3 of this Contract and is the

150 stated share or quantity of the Project’s available water supply to which the Contractor has a
151 permanent right in accordance with the 1956 Act and the terms of this Contract, due to the
152 Contractor's complete payment of the Repayment Obligation, notwithstanding any Additional Capital
153 Obligation that may later be established, which right shall not be disturbed so long as the Contractor
154 fulfills all of its obligations under this Contract;

155 (i) “Contractor's Service Area” shall mean the area to which the Contractor is
156 permitted to provide Project Water under this Contract as described in Exhibit “A” attached hereto,
157 which may be modified from time to time in accordance with Article 36 of this Contract without
158 amendment of this Contract;

159 (j) “CVPIA” shall mean the Central Valley Project Improvement Act, Title
160 XXXIV of the Act of October 30, 1992 (106 Stat. 4706);

161 (k) Omitted;

162 (l) Omitted;

163 (m) “Existing Capital Obligation” shall mean the remaining amount of construction
164 costs of the Contractor identified in the Central Valley Project Irrigation Water Rates and/or
165 Municipal and Industrial Water Rates, respectively, dated January 25, 2007, as adjusted to reflect
166 payments not reflected in such schedule, pursuant to Section 10010(a)(3)(A) of the SJRRSA. The
167 Contracting Officer has computed the Existing Capital Obligation in a manner consistent with the
168 SJRRSA and such amount is set forth in Exhibits “C-1” and “C-2”, incorporated herein by reference;

169 (n) “Financing Costs”, for purposes of computing the reduction of certain charges
170 as specified in subdivision (c) of Article 7 of this Contract, shall mean the difference between the net

171 present value of the Existing Capital Obligation discounted using the full Treasury rate and the
172 Existing Capital Obligation discounted using one-half the Treasury Rate, as set forth in Section
173 10010(d)(3) of the SJRRA;

174 (o) Omitted;

175 (p) Omitted;

176 (q) Omitted;

177 (r) "Irrigation Water" shall mean water made available from the Project that is
178 used primarily in the production of agricultural crops or livestock, including domestic use incidental
179 thereto, and watering of livestock. Irrigation water shall not include water used for the purposes such
180 as the watering of landscaping or pasture for animals (e.g., horses) which are kept for personal
181 enjoyment or water delivered to landholdings operated in units of less than five (5) acres unless the
182 Contractor establishes to the satisfaction of the Contracting Officer that the use of the water delivered
183 to any such landholding is a use described in this subdivision of this Article of this Contract;

184 (s) Omitted;

185 (t) "Long Term Historic Average" shall mean the average of the final forecast of
186 Water Made Available to the Contractor pursuant to this Contract and the contracts referenced in the
187 third (3rd) and fourth (4th) Explanatory Recitals of this Contract;

188 (u) Omitted;

189 (v) Omitted;

190 (w) "Operation and Maintenance" or "O&M" shall mean normal and reasonable
191 care, control, operation, repair, replacement (other than Capital replacement), and maintenance of
192 Project facilities;

193 (x) "Operating Non-Federal Entity" shall mean the Friant Water Authority, or its
194 successor, a Non-Federal entity, which has the obligation to operate and maintain all or a portion of
195 the Friant Division Facilities pursuant to an agreement with the United States and which may have
196 funding obligations with respect thereto;

197 (y) "Other Water" shall mean water from the Project other than Irrigation Water as
198 described in subdivision (r) of this Article of this Contract, which is used for a purpose that is
199 considered to be an irrigation use pursuant to State law such as the watering of landscaping or pasture
200 for animals (e.g., horse) which are kept for the personal enjoyment. For purposes of this Contract,
201 Other Water shall be paid for at Rates and Charges identical to those established for municipal and
202 industrial water pursuant to the then-existing Municipal and Industrial Ratesetting Policy;

203 (z) "Project" shall mean the Central Valley Project owned by the United States
204 and managed by the Department of the Interior, Bureau of Reclamation;

205 (aa) "Project Contractors" shall mean all parties who have a long-term water
206 service contract or repayment contract for Project Water from the Project with the United States
207 pursuant to Federal Reclamation law;

208 (bb) "Project Water" shall mean all water that is developed, diverted, stored, or
209 delivered by the Secretary in accordance with the statutes authorizing the Project and in accordance
210 with the terms and conditions of water rights acquired pursuant to California law;

211 (cc) “Rates” shall mean the payments for O&M costs as determined annually by the
212 Contracting Officer in accordance with the then-existing applicable water ratesetting policies for the
213 Project, as described in subdivision (a) of Article 7 of this Contract and illustrated in Exhibit “B”,
214 attached hereto;

215 (dd) “Recovered Water Account” shall mean the program, as defined in the
216 Settlement, to make water available to all of the Friant Division Project Contractors who provide
217 water to meet interim flows or restoration flows for the purpose of reducing or avoiding the impact of
218 the interim flows and restoration flows on such contractors;

219 (ee) “Repayment Obligation”, as provided in subdivision (a)(2)(A) of Article 7 of
220 this Contract, shall be the Existing Capital Obligation, as defined herein, discounted by one-half of
221 the Treasury rate and computed consistent with the provisions of Section 10010(3)(A) of the
222 SJRRSA to be paid as either a lump sum payment by January 31, 2011 or in approximately equal
223 annual installments by January 31, 2014;

224 (ff) “Secretary” shall mean the Secretary of the Interior, a duly appointed
225 successor, or an authorized representative acting pursuant to any authority of the Secretary and
226 through any agency of the Department of the Interior;

227 (gg) “Settlement” shall mean the Stipulation of Settlement dated September 13,
228 2006, the Order Approving Stipulation of Settlement, and the Judgment and further orders issued by
229 the Court pursuant to the terms and conditions of the Settlement in Natural Resources Defense
230 Council, et al. v. Rodgers, et al., No. CIV-S-88-1658 LLJ/GGH;

231 (hh) Omitted;

232 (ii) "Water Delivered" or "Delivered Water" shall mean Project Water diverted for
233 use by the Contractor at the point(s) of delivery approved by the Contracting Officer;

234 (jj) "Water Made Available" shall mean the estimated amount of Project Water
235 that can be delivered to the Contractor for the upcoming Year as declared by the Contracting Officer,
236 pursuant to subdivision (a) of Article 4 of this Contract;

237 (kk) "Water Management Goal" shall mean the goal of the Settlement to reduce or
238 avoid adverse water supply impacts to all the Friant Division Project Contractors that may result from
239 the interim flows and restoration flows provided for in the Settlement;

240 (ll) "Water Scheduled" shall mean Project Water made available to the Contractor
241 for which times and quantities for delivery have been established by the Contractor and Contracting
242 Officer, pursuant to subdivision (b) of Article 4 of this Contract; and

243 (mm) "Year" shall mean the period from and including March 1 of each Calendar
244 Year through the last day of February of the following Calendar Year.

245 EFFECTIVE DATE OF CONTRACT

246 2. (a) This Contract shall become effective on the date first hereinabove written and
247 shall continue so long as the Contractor is making the annual payments required herein and paying
248 any other amounts owing under this Contract and applicable law, unless it is terminated by the
249 Contracting Officer by reason of a material uncured breach by the Contractor; Provided, That the
250 Contracting Officer shall not seek to terminate this Contract by reason of an asserted material
251 uncured breach by the Contractor unless it has first provided at least sixty (60) days written notice of
252 the asserted breach to the Contractor and the Contractor has failed to cure such breach (or to

253 diligently commence curative actions satisfactory to the Contracting Officer for a breach that cannot
254 be fully cured within sixty (60) days) within the sixty (60)-day notice period; Provided further, That
255 this Contract may be terminated at any time by mutual consent of the parties hereto.

256 (b) The Contractor has paid the Repayment Obligation, and notwithstanding any
257 Additional Capital Obligation that may later be established, the tiered pricing component and the
258 acreage limitations, reporting, and Full Cost pricing provisions of Federal Reclamation law, shall no
259 longer be applicable to the Contractor.

260 (c) This Contract supersedes in its entirety and is intended to replace in full the
261 Existing Contract; Provided, That if this Contract is terminated or determined to be invalid or
262 unenforceable for any reason other than a material uncured breach of this Contract by the Contractor,
263 the Existing Contract shall not be superseded and shall be in full force and effect.

264 WATER TO BE MADE AVAILABLE AND DELIVERED TO THE CONTRACTOR

265 3. (a) During each Year, consistent with all applicable State water rights, permits,
266 and licenses, Federal law, the Settlement including the SJRRSA, and subject to the provisions set
267 forth in Articles 12 and 13 of this Contract, the Contracting Officer shall make available for delivery
268 to the Contractor from the Project 16,000 acre-feet of Class 1 Water and 30,000 acre-feet of Class 2
269 Water for irrigation purposes. The quantity of Water Delivered to the Contractor in accordance with
270 this subdivision shall be scheduled and paid for pursuant to the provisions of Articles 4 and 7 of this
271 Contract.

272 (b) The Contractor has paid the Repayment Obligation, and notwithstanding any
273 Additional Capital Obligation that may later be established, the Contractor has a permanent right to

274 the Contract Total in accordance with the 1956 Act and the terms of this Contract. This right shall
275 not be disturbed so long as the Contractor fulfills all of its obligations hereunder. The quantity of
276 water made available for delivery in any given Year shall remain subject to the terms and conditions
277 of subdivision (a) of this Article of this Contract.

278 (c) The Contractor shall utilize the Project Water in accordance with all applicable
279 legal requirements.

280 (d) The Contractor shall make reasonable and beneficial use of all Project Water
281 or other water furnished pursuant to this Contract. Groundwater recharge programs, groundwater
282 banking programs, surface water storage programs, and other similar programs utilizing Project
283 Water or other water furnished pursuant to this Contract conducted within the Contractor's Service
284 Area which are consistent with applicable State law and result in use consistent with applicable
285 Federal Reclamation law will be allowed; Provided, That any direct recharge program(s) is (are)
286 described in the Contractor's Water Conservation Plan submitted pursuant to Article 27 of this
287 Contract; Provided further, That such Water Conservation Plan demonstrates sufficient lawful uses
288 exist in the Contractor's Service Area so that using a long-term average, the quantity of Delivered
289 Water is demonstrated to be reasonable for such uses and in compliance with Federal Reclamation
290 law. Groundwater recharge programs, groundwater banking programs, surface water storage
291 programs, and other similar programs utilizing Project Water or other water furnished pursuant to this
292 Contract conducted outside the Contractor's Service Area may be permitted upon written approval of
293 the Contracting Officer, which approval will be based upon environmental documentation, Project

294 Water rights, and Project operational concerns. The Contracting Officer will address such concerns
295 in regulations, policies, or guidelines.

296 (e) The Contractor, through this Contract, shall comply with requirements
297 applicable to the Contractor in biological opinion(s) prepared as a result of the consultation regarding
298 the execution of the Existing Contract undertaken pursuant to Section 7 of the Endangered Species
299 Act of 1973, as amended, as well as the requirements of any other biological opinions applicable to
300 Project Water delivery under this Contract, that are within the Contractor's legal authority to
301 implement. The Contractor shall comply with the limitations or requirements imposed by
302 environmental documentation applicable to the Contractor and within its legal authority to implement
303 regarding specific activities. Nothing herein shall be construed to prevent the Contractor from
304 challenging or seeking judicial relief in a court of competent jurisdiction with respect to any
305 biological opinion or other environmental documentation referred to in this Article of this Contract.

306 (f) Subject to subdivisions (l) and (n) of this Article of this Contract, following the
307 declaration of Water Made Available under Article 4 of this Contract, the Contracting Officer will
308 make a determination whether Project Water, or other water available to the Project, can be made
309 available to the Contractor in addition to the Contract Total in this Article of this Contract during the
310 Year without adversely impacting the Project or other Project Contractors and consistent with the
311 Secretary's legal obligations. At the request of the Contractor, the Contracting Officer will consult
312 with the Contractor prior to making such a determination. Subject to subdivisions (l) and (n) of this
313 Article of this Contract, if the Contracting Officer determines that Project Water, or other water
314 available to the Project, can be made available to the Contractor, the Contracting Officer will

315 announce the availability of such water and shall so notify the Contractor as soon as practical. The
316 Contracting Officer will thereafter meet with the Contractor and other Project Contractors capable of
317 taking such water to determine the most equitable and efficient allocation of such water. If the
318 Contractor requests the delivery of any quantity of such water, the Contracting Officer shall make
319 such water available to the Contractor in accordance with applicable statutes, regulations, guidelines,
320 and policies.

321 (g) The Contractor may request permission to reschedule for use during the
322 subsequent Year some or all of the Water Made Available to the Contractor during the current Year
323 referred to as “carryover.” The Contractor may request permission to use during the current Year a
324 quantity of Project Water which may be made available by the United States to the Contractor during
325 the subsequent Year referred to as “pre-use.” The Contracting Officer’s written approval may permit
326 such uses in accordance with applicable statutes, regulations, guidelines, and policies.

327 (h) The Contractor’s right pursuant to Federal Reclamation law and applicable
328 State law to the reasonable and beneficial use of the Water Delivered pursuant to this Contract shall
329 not be disturbed so long as the Contractor shall fulfill all of its obligations under this Contract.
330 Nothing in the preceding sentence shall affect the Contracting Officer’s ability to impose shortages
331 under Article 12 or subdivision (b) of Article 13 of this Contract.

332 (i) Project Water furnished to the Contractor pursuant to this Contract may be
333 delivered for purposes other than those described in subdivisions (r) and (y) of Article 1 of this
334 Contract upon written approval by the Contracting Officer in accordance with the terms and
335 conditions of such approval.

336 (j) The Contracting Officer shall make reasonable efforts to protect the water
337 rights and other rights described in the fifth (5th) Explanatory Recital of this Contract and to provide
338 the water available under this Contract. The Contracting Officer shall not object to participation by
339 the Contractor, in the capacity and to the extent permitted by law, in administrative proceedings
340 related to the water rights and other rights described in the fifth (5th) Explanatory Recital of this
341 Contract; Provided however, That the Contracting Officer retains the right to object to the substance
342 of the Contractor's position in such a proceeding. Provided further, that in such proceedings the
343 Contracting Officer shall recognize the Contractor has a legal right under the terms of this Contract to
344 use Project Water.

345 (k) Project Water furnished to the Contractor during any month designated in a
346 schedule or revised schedule submitted by the Contractor and approved by the Contracting Officer
347 shall be deemed to have been accepted by the Contractor as Class 1 Water to the extent that Class 1
348 Water is called for in such schedule for such month and shall be deemed to have been accepted as
349 Class 2 Water to the extent Class 2 Water is called for in such schedule for such month. If in any
350 month the Contractor diverts a quantity of water in addition to the total amount of Class 1 Water and
351 Class 2 Water set forth in the Contractor's approved schedule or revised schedule for such month,
352 such additional diversions shall be charged first against the Contractor's remaining Class 2 Water
353 supply available in the current Year. To the extent the Contractor's remaining Class 2 Water supply
354 available in the current Year is not sufficient to account for such additional diversions, such
355 additional diversions shall be charged against the Contractor's remaining Class 1 Water supply
356 available in the current Year. To the extent the Contractor's remaining Class 1 Water and Class 2

357 Water supplies available in the current Year are not sufficient to account for such additional
358 diversions, such additional diversions shall be charged first against the Contractor's available Class 2
359 Water supply and then against the Contractor's available Class 1 Water supply, both for the following
360 Year. Payment for all additional diversions of water shall be made in accordance with Article 7 of
361 this Contract.

362 (l) If the Contracting Officer determines there is a Project Water supply available
363 at Friant Dam as the result of an unusually large water supply not otherwise storable for Project
364 purposes or infrequent and otherwise unmanaged flood flows of short duration, such water will be
365 made available to the Contractor and others under Section 215 of the Act of October 12, 1982,
366 pursuant to the priorities specified below if the Contractor enters into a temporary contract with the
367 United States not to exceed one (1) year for the delivery of such water or as otherwise provided for in
368 Federal Reclamation law and associated regulations. Such water may be identified by the Contractor
369 either (i) as additional water to supplement the supply of Class 1 Water and/or Class 2 Water made
370 available to it pursuant to this Contract or, (ii) upon written notification to the Contracting Officer, as
371 water to be credited against the Contractor's Class 2 Water supply available pursuant to this Contract.
372 The Contracting Officer shall make water determined to be available pursuant to this subsection
373 according to the following priorities: first, to contractors for Class 1 Water and/or Class 2 Water
374 within the Friant Division; second, to contractors in the Cross Valley Division of the Project. The
375 Contracting Officer will consider requests from other parties for Section 215 Water for use within the
376 area identified as the Friant Division service area in the environmental assessment developed in
377 connection with the execution of the Existing Contract.

378 (m) Nothing in this Contract, nor any action or inaction of the Contractor or
379 Contracting Officer in connection with the implementation of this Contract, is intended to override,
380 modify, supersede or otherwise interfere with any term or condition of the water rights and other
381 rights referred in the fifth (5th) Explanatory Recital of this Contract.

382 (n) The rights of the Contractor under this Contract are subject to the terms of the
383 contract for exchange waters, dated July 27, 1939, between the United States and the San Joaquin and
384 Kings River Canal and Irrigation Company, Incorporated, et al., (hereinafter referred to as the
385 Exchange Contractors), Contract No. I1r-1144, as amended. The United States agrees that it will not
386 deliver to the Exchange Contractors thereunder waters of the San Joaquin River unless and until
387 required by the terms of said contract, and the United States further agrees that it will not voluntarily
388 and knowingly determine itself unable to deliver to the Exchange Contractors entitled thereto from
389 water that is available or that may become available to it from the Sacramento River and its
390 tributaries or the Sacramento-San Joaquin Delta those quantities required to satisfy the obligations of
391 the United States under said Exchange Contract and under Schedule 2 of the Contract for Purchase of
392 Miller and Lux Water Rights (Contract I1r-1145, dated July 27, 1939).

393 (o) Pursuant to and consistent with section 10004 of SJRRSA and Paragraph 16 of
394 the Settlement, the Contracting Officer is required to develop and implement a plan for recirculation,
395 recapture, reuse, exchange or transfer of water released for restoration flows or interim flows, as
396 those terms are defined in the Settlement, to reduce or avoid impacts to water deliveries caused by
397 said restoration flows or interim flows. Water developed through such activities may be made
398 available (i) to the Contractor without the need of an additional contract, and/or (ii) to others on

399 behalf of the Contractor under terms mutually acceptable to the Contractor and the Contracting
400 Officer that are consistent with the Water Management Goal.

401 TIME FOR DELIVERY OF WATER

402 4. (a) On or about February 20 of each Calendar Year, the Contracting Officer shall
403 announce the Contracting Officer's initial declaration of the Water Made Available. The declaration
404 will be updated monthly and more frequently if necessary, based on then-current operational and
405 hydrologic conditions and a new declaration with changes, if any, to the Water Made Available will
406 be made. The Contracting Officer shall provide forecasts of Project operations and the basis of the
407 estimate, with relevant supporting information, upon the written request of the Contractor.

408 Concurrently with the declaration of the Water Made Available, the Contracting Officer shall provide
409 the Contractor with the updated Long Term Historic Average. The declaration of Project operations
410 will be expressed in terms of both Water Made Available and the Long Term Historic Average.

411 (b) On or before each March 1 and at such other times as necessary, the Contractor
412 shall submit to the Contracting Officer a written schedule, satisfactory to the Contracting Officer,
413 showing the monthly quantities of Project Water to be delivered by the United States to the
414 Contractor pursuant to this Contract for the Year commencing on such March 1. The Contracting
415 Officer shall use all reasonable means to deliver Project Water according to the approved schedule
416 for the Year commencing on such March 1.

417 (c) The Contractor shall not schedule Project Water in excess of the quantity of
418 Project Water the Contractor intends to put to reasonable and beneficial use within the Contractor's

419 Service Area, or to sell, transfer or exchange pursuant to Article 10 of this Contract or bank pursuant
420 to subdivision (d) of Article 3 of this Contract during any Year.

421 (d) Subject to the conditions set forth in subdivision (a) of Article 3 of this
422 Contract, the United States shall deliver Project Water to the Contractor in accordance with the initial
423 schedule submitted by the Contractor pursuant to subdivision (b) of this Article, or any written
424 revision(s), satisfactory to the Contracting Officer, thereto submitted within a reasonable time prior to
425 the date(s) on which the requested change(s) is/are to be implemented; Provided, That the total
426 amount of water requested in that schedule or revision does not exceed the quantities announced by
427 the Contracting Officer pursuant to the provisions of subdivision (a) of Article 3 of this Contract, and
428 the Contracting Officer determines that there will be sufficient capacity available in the appropriate
429 Friant Division Facilities to deliver the water in accordance with that schedule; Provided further,
430 That the Contractor shall not schedule the delivery of any water during any period as to which the
431 Contractor is notified by the Contracting Officer or Operating Non-Federal Entity that Project
432 facilities required to make deliveries to the Contractor will not be in operation because of scheduled
433 O&M.

434 (e) The Contractor may, during the period from and including November 1 of each
435 Year through and including the last day of February of that Year, request delivery of any amount of
436 the Class 1 Water estimated by the Contracting Officer to be made available to it during the following
437 Year. The Contractor may, during the period from and including January 1 of each Year (or such
438 earlier date as may be determined by the Contracting Officer) through and including the last day of
439 February of that Year, request delivery of any amount of Class 2 Water estimated by the Contracting

440 Officer to be made available to it during the following Year. Such water shall hereinafter be referred
441 to as pre-use water. Such request must be submitted in writing by the Contractor for a specified
442 quantity of pre-use and shall be subject to the approval of the Contracting Officer. Payment for pre-
443 use water so requested shall be at the appropriate Rate(s) for the following Year in accordance with
444 Article 7 of this Contract and shall be made in advance of delivery of any pre-use water. The
445 Contracting Officer shall deliver such pre-use water in accordance with a schedule or any revision
446 thereof submitted by the Contractor and approved by the Contracting Officer, to the extent such water
447 is available and to the extent such deliveries will not interfere with the delivery of Project Water
448 entitlements to other Friant Division contractors or the physical maintenance of the Project facilities.
449 The quantities of pre-use Water Delivered pursuant to this subdivision shall be deducted from the
450 quantities of water that the Contracting Officer would otherwise be obligated to make available to the
451 Contractor during the following Year; Provided, That the quantity of pre-use water to be deducted
452 from the quantities of either Class 1 Water or Class 2 Water to be made available to the Contractor in
453 the following Year shall be specified by the Contractor at the time the pre-use water is requested or as
454 revised in its first schedule for the following Year submitted in accordance with subdivision (b) of
455 this Article of this Contract, based on the availability of the following Year water supplies as
456 determined by the Contracting Officer.

457 POINT OF DIVERSION AND RESPONSIBILITY FOR DISTRIBUTION OF WATER

458 5. (a) Project Water scheduled pursuant to subdivision (b) of Article 4 of this
459 Contract shall be delivered to the Contractor at a point or points of delivery either on Project facilities

460 or another location or locations mutually agreed to in writing by the Contracting Officer and the
461 Contractor.

462 (b) The Contracting Officer, the Operating Non-Federal Entity, or other
463 appropriate entity shall make all reasonable efforts to maintain sufficient flows and levels of water in
464 the Friant-Kern Canal to deliver Project Water to the Contractor at specific turnouts established
465 pursuant to subdivision (a) of this Article of this Contract.

466 (c) The Contractor shall not deliver Project Water to land outside the Contractor's
467 Service Area unless approved in advance by the Contracting Officer. The Contractor shall deliver
468 Project Water in accordance with applicable Federal Reclamation law.

469 (d) All Water Delivered to the Contractor pursuant to this Contract shall be
470 measured and recorded with equipment furnished, installed, operated, and maintained by the United
471 States, the Operating Non-Federal Entity or other appropriate entity as designated by the Contracting
472 Officer (hereafter "other appropriate entity") at the point or points of delivery established pursuant to
473 subdivision (a) of this Article of this Contract. Upon the request of either party to this Contract, the
474 Contracting Officer shall investigate, or cause to be investigated by the responsible Operating Non-
475 Federal Entity, the accuracy of such measurements and shall take any necessary steps to adjust any
476 errors appearing therein. For any period of time when accurate measurements have not been made,
477 the Contracting Officer shall consult with the Contractor and the responsible Operating Non-Federal
478 Entity prior to making a final determination of the quantity delivered for that period of time.

479 (e) Neither the Contracting Officer nor any Operating Non-Federal Entity shall be
480 responsible for the control, carriage, handling, use, disposal, or distribution of Project Water

481 Delivered to the Contractor pursuant to this Contract beyond the delivery points specified in
482 subdivision (a) of this Article of this Contract. The Contractor shall indemnify the United States, its
483 officers, employees, agents, and assigns on account of damage or claim of damage of any nature
484 whatsoever for which there is legal responsibility, including property damage, personal injury, or
485 death arising out of or connected with the control, carriage, handling, use, disposal, or distribution of
486 such Project Water beyond such delivery points, except for any damage or claim arising out of: (i)
487 acts or omissions of the Contracting Officer or any of its officers, employees, agents, or assigns,
488 including any responsible Operating Non-Federal Entity, with the intent of creating the situation
489 resulting in any damage or claim; (ii) willful misconduct of the Contracting Officer or any of its
490 officers, employees, agents, or assigns, including any responsible Operating Non-Federal Entity; (iii)
491 negligence of the Contracting Officer or any of its officers, employees, agents, or assigns including
492 any responsible Operating Non-Federal Entity; or (iv) damage or claims resulting from a malfunction
493 of facilities owned and/or operated by the United States or responsible Operating Non-Federal Entity;
494 Provided, That the Contractor is not the Operating Non-Federal Entity that owned or operated the
495 malfunctioning facility(ies) from which the damage claim arose.

496 MEASUREMENT OF WATER WITHIN THE SERVICE AREA

497 6. (a) The Contractor has established a measurement program satisfactory to the
498 Contracting Officer; all surface water delivered for irrigation purposes within the Contractor's
499 Service Area is measured at each agricultural turnout; and Other Water delivered by the Contractor is
500 measured at each service connection. The water measuring devices or water measuring methods of
501 comparable effectiveness must be acceptable to the Contracting Officer. The Contractor shall be

502 responsible for installing, operating, and maintaining and repairing all such measuring devices and
503 implementing all such water measuring methods at no cost to the United States. The Contractor shall
504 use the information obtained from such water measuring devices or water measuring methods to
505 ensure its proper management of the water and to bill water users for water delivered by the
506 Contractor. Nothing herein contained, however, shall preclude the Contractor from establishing and
507 collecting any charges, assessments, or other revenues authorized by California law.

508 (b) To the extent the information has not otherwise been provided, upon execution
509 of this Contract, the Contractor shall provide to the Contracting Officer a written report describing
510 the measurement devices or water measuring methods being used or to be used to implement
511 subdivision (a) of this Article of this Contract and identifying the agricultural turnouts and Other
512 Water service connections or alternative measurement programs approved by the Contracting Officer,
513 at which such measurement devices or water measuring methods are being used, and, if applicable,
514 identifying the locations at which such devices and/or methods are not yet being used including a
515 time schedule for implementation at such locations. The Contracting Officer shall advise the
516 Contractor in writing within sixty (60) days as to the adequacy of, and necessary modifications, if
517 any, of the measuring devices or water measuring methods identified in the Contractor's report and if
518 the Contracting Officer does not respond in such time, they shall be deemed adequate. If the
519 Contracting Officer notifies the Contractor that the measuring devices or methods are inadequate, the
520 parties shall within sixty (60) days following the Contracting Officer's response, negotiate in good
521 faith the earliest practicable date by which the Contractor shall modify said measuring devices and/or

522 measuring methods as required by the Contracting Officer to ensure compliance with subdivision (a)
523 of this Article of this Contract.

524 (c) All new surface water delivery systems installed within the Contractor's
525 Service Area after the effective date of this Contract shall also comply with the measurement
526 provisions described in subdivision (a) of this Article of this Contract.

527 (d) The Contractor shall inform the Contracting Officer and the State of California
528 in writing by April 30 of each Year of the monthly volume of surface water delivered within the
529 Contractor's Service Area during the previous Year.

530 (e) The Contractor shall inform the Contracting Officer and the Operating Non-
531 Federal Entity on or before the twentieth (20th) calendar day of each month of the quantity of
532 Irrigation and Other Water taken during the preceding month.

533 RATES, METHOD OF PAYMENT FOR WATER,
534 AND ACCELERATED REPAYMENT OF FACILITIES

535 7. (a) The Contractor's cost obligations for all Delivered Water shall be determined
536 in accordance with: (i) the Secretary's ratesetting policy for Irrigation Water adopted in 1988 and the
537 Secretary's then-existing ratesetting policy for municipal and industrial water, consistent with the
538 SJRRSA, and such ratesetting policies shall be amended, modified, or superseded only through a
539 public notice and comment procedure; (ii) applicable Federal Reclamation law and associated rules
540 and regulations, or policies; and (iii) other applicable provisions of this Contract.

541 (1) The Contractor shall pay the United States as provided for in this
542 Article of this Contract for the Delivered Water at Rates and Charges determined in accordance with
543 policies for Irrigation Water and municipal and industrial water. The Contractor's Rates shall be

544 established to recover its estimated reimbursable costs included in the O&M Component of the Rate
545 and amounts established to recover other charges and deficits, other than the construction costs. The
546 Rates for O&M costs and Charges shall be adjusted, as appropriate, in accordance with the provisions
547 of the SJRRSA.

548 (2) Omitted.

549 (A) Omitted.

550 (B) Project construction costs or other capitalized costs attributable

551 to capital additions to the Project incurred after the effective date of this Contract or that are not
552 reflected in the schedules referenced in Exhibits “C-1” and “C-2” and properly assignable to the
553 Contractor, shall be repaid as prescribed by the SJRRSA without interest except as required by law.

554 Consistent with Federal Reclamation law, interest shall continue to accrue on the municipal and
555 industrial portion of unpaid Project construction costs or other capitalized cost assigned to the

556 Contractor until such costs are paid. Increases or decreases in Project construction costs or other
557 capitalized costs assigned to the Contractor caused solely by annual adjustment of Project

558 construction costs or other capitalized costs assigned to each CVP contractor by the Secretary shall
559 not be considered in determining the amounts to be paid pursuant to this subdivision (a)(2)(B), but

560 will be considered under subdivision (b) of this Article. A separate repayment agreement shall be
561 established by the Contractor and the Contracting Officer to accomplish repayment of all additional

562 Project construction costs or other capitalized costs assigned to the Contractor within the timeframe
563 prescribed by the SJRRSA subject to the following:

564 (1) If the collective annual Project construction costs or

565 other capitalized costs that are incurred after the effective date of this Contract and properly

566 assignable to the contractors are less than \$5,000,000, then the portion of such costs properly

567 assignable to the Contractor shall be repaid in not more than five (5) years after notification of the

568 allocation. This amount is the result of a collective annual allocation of Project construction costs to

569 the contractors exercising contract conversions; Provided, That the reference to the amount of

570 \$5,000,000 shall not be a precedent in any other context.

571 (2) If the collective annual Project construction costs or

572 other capitalized costs that are incurred after the effective date of this Contract and properly

573 assignable to the contractors are \$5,000,000 or greater, then the portion of such costs properly

574 assignable to the Contractor shall be repaid as provided by applicable Federal Reclamation law. This

575 amount is the result of a collective annual allocation of Project construction costs to the contractors

576 exercising contract conversions; Provided, That the reference to the amount of \$5,000,000 shall not

577 be a precedent in any other context.

578 (b) Consistent with Section 10010(b) of the SJRRSA, following a final cost

579 allocation by the Secretary upon completion of the construction of the Central Valley Project, the

580 amounts paid by the Contractor shall be subject to adjustment to reflect the effect of any reallocation

581 of Project construction costs or other capitalized costs assigned to the Contractor that may have

582 occurred between the determination of Contractor's Existing Capital Obligation and the final cost

583 allocation. In the event that the final cost allocation, as determined by the Secretary, indicates that

584 the costs properly assignable to the Contractor, as determined by the Contracting Officer, are greater

585 than the Existing Capital Obligation and other amounts of Project construction costs or other
586 capitalized costs paid by the Contractor, then the Contractor shall be obligated to pay the remaining
587 allocated costs. The term of such additional repayment contract shall be no less than one (1) year and
588 no more than ten (10) years, however, mutually agreeable provisions regarding the rate of repayment
589 of such amount may be developed by the parties. In the event that the final cost allocation, as
590 determined by the Secretary, indicates that the costs properly assignable to the Contractor, as
591 determined by the Contracting Officer, are less than the Existing Capital Obligation and other
592 amounts of Project construction costs or other capitalized costs paid by the Contractor, then the
593 Contracting Officer shall credit such overpayment as an offset against any outstanding or future
594 obligation of the Contractor, consistent with the SJRRSA. This Contract shall be implemented in a
595 manner consistent with Section 10010(f) of the SJRRSA.

596 (c) Prior to July 1 of each Calendar Year, the Contracting Officer shall provide the
597 Contractor an estimate of the Charges for Project Water that will be applied to the period October 1,
598 of the current Calendar Year, through September 30, of the following Calendar Year, and the basis
599 for such estimate. The Contractor shall be allowed not less than two (2) months to review and
600 comment on such estimates. On or before September 15 of each Calendar Year, the Contracting
601 Officer shall notify the Contractor in writing of the Charges to be in effect during the period October
602 1 of the current Calendar Year, through September 30 of the following Calendar Year, and such
603 notification shall revise Exhibit "B". Charges shall be subject to reduction consistent with the
604 SJRRSA based upon the average annual delivery amount agreed to by the Contracting Officer and the
605 Contractor.

606 (1) For the years 2020 through 2039 inclusive, Charges shall reflect the
607 reduction on a per acre-foot basis consistent with Section 10010(d)(1) of the SJRRSA. Exhibit “D”
608 sets forth the reduction in Charges to offset the Financing Costs as prescribed in Section 10010(d)(1)
609 of the SJRRSA; Provided, That if the Secretary determines such Charges are otherwise needed, an
610 equivalent reduction will be made to O&M costs consistent with such provisions of the SJRRSA.
611 Consistent with Section 10010(d)(1) of the SJRRSA and as shown in Exhibit “D”, the Friant
612 Surcharge reduction has been calculated based upon the anticipated average annual water deliveries,
613 for the purpose of this reduction only, mutually agreed upon by the Secretary and the Contractor for
614 the period from January 1, 2020 through December 31, 2039. The Friant Surcharge reduction shall
615 remain fixed and shall only be applied to Water Delivered pursuant to this Contract to which the
616 Friant Surcharge applies (including but not limited to water transferred, banked, or exchanged),
617 commencing on January 1, 2020 until such volume of Water Delivered equals 356,000 acre-feet or
618 December 31, 2039, whichever occurs first.

619 (2) Further, to fully offset the Financing Costs, Contractor shall be entitled
620 to a reduction in other outstanding or future obligations of the Contractor in accordance with Section
621 10010(d)(2) of the SJRRSA. The amount of such further reduction in outstanding or future
622 obligations of the Contractor after October 1, 2019 has been computed by the Contracting Officer,
623 and as computed, such amount is set forth in Exhibit “D”.

624 (d) Prior to October 1 of each Calendar Year, the Contracting Officer shall make
625 available to the Contractor an estimate of the Rates for Project Water for the following Year and the
626 computations and cost allocations upon which those Rates are based. The Contractor shall be

627 allowed not less than two (2) months to review and comment on such computations and cost
628 allocations. By December 31 of each Calendar Year, the Contracting Officer shall provide the
629 Contractor with the final Rates to be in effect for the upcoming Year, and such notification shall
630 revise Exhibit "B". The O&M component of the Rate may be reduced as provided in the SJRRSA.

631 (e) At the time the Contractor submits the initial schedule for the delivery of
632 Project Water for each Year pursuant to subdivision (b) of Article 4 of this Contract, the Contractor
633 shall make an advance payment to the United States equal to the total amount payable pursuant to the
634 applicable Rate(s) set under subdivision (a) of this Article of this Contract, for the Project Water
635 scheduled to be delivered pursuant to this Contract during the first two (2) calendar months of the
636 Year. Before the end of the first month and before the end of each calendar month thereafter, the
637 Contractor shall make an advance payment to the United States, at the Rate(s) set under subdivision
638 (a) of this Article of this Contract, for the Water Scheduled to be delivered pursuant to this Contract
639 during the second month immediately following. Adjustments between advance payments for Water
640 Scheduled and payments at Rates due for Water Delivered shall be made before the end of the
641 following month; Provided, That any revised schedule submitted by the Contractor pursuant to
642 Article 4 of this Contract which increases the amount of Water Delivered pursuant to this Contract
643 during any month shall be accompanied with appropriate advance payment, at the Rates then in
644 effect, to assure that Project Water is not delivered to the Contractor in advance of such payment. In
645 any month in which the quantity of Water Delivered to the Contractor pursuant to this Contract
646 equals the quantity of Water Scheduled and paid for by the Contractor, no additional Project Water
647 shall be delivered to the Contractor unless and until an advance payment at the Rates then in effect

648 for such additional Project Water is made. Final adjustment between the advance payments for the
649 Water Scheduled and payments for the quantities of Water Delivered during each Year pursuant to
650 this Contract shall be made as soon as practicable but no later than April 30th of the following Year,
651 or sixty (60) days after the delivery of Project Water carried over under subdivision (g) of Article 3 of
652 this Contract if such water is not delivered by the last day of February.

653 (f) The Contractor shall also make a payment in addition to the Rate(s) in
654 subdivision (e) of this Article of this Contract to the United States for Water Delivered, at the
655 Charges then in effect, before the end of the month following the month of delivery. The payments
656 shall be consistent with the quantities of Irrigation Water and Other Water Delivered as shown in the
657 water delivery report for the subject month prepared by the Contracting Officer. Such water delivery
658 report shall be the basis for payment of Charges by the Contractor, and shall be provided to the
659 Contractor by the Contracting Officer (as applicable) within five (5) days after the end of the month
660 of delivery. The water delivery report shall be deemed a bill basis for payment of Charges for Water
661 Delivered. Adjustment for overpayment or underpayment of Charges shall be made through the
662 adjustment of payments due to the United States for Charges for the next month. Any amount to be
663 paid for past due payment of Charges shall be computed pursuant to Article 21 of this Contract.

664 (g) The Contractor shall pay for any Water Delivered under subdivision (d), (f), or
665 (g) of Article 3 of this Contract as determined by the Contracting Officer pursuant to applicable
666 statutes, associated regulations, any applicable provisions of guidelines or ratesetting policies;
667 Provided, That the Rate for Water Delivered under subdivision (d) of Article 3 of this Contract shall

668 be no more than the otherwise applicable Rate for Irrigation Water or Other Water under subdivision
669 (a) of this Article of this Contract.

670 (h) Payments to be made by the Contractor to the United States under this
671 Contract may be paid from any revenues available to the Contractor.

672 (i) All revenues received by the United States from the Contractor relating to the
673 delivery of Project Water or the delivery of non-project water through Project facilities shall be
674 allocated and applied in accordance with Federal Reclamation law and the associated rules or
675 regulations, the then-existing Project Ratesetting policies for municipal and industrial water or
676 Irrigation Water, and consistent with the SJRRSA.

677 (j) The Contracting Officer shall keep its accounts, pertaining to the
678 administration of the financial terms and conditions of its long-term contracts, in accordance with
679 applicable Federal standards so as to reflect the application of Project costs and revenues. The
680 Contracting Officer shall, each Year upon request of the Contractor, provide to the Contractor a
681 detailed accounting of all Project and Contractor expense allocations, the disposition of all Project
682 and Contractor revenues, and a summary of all water delivery information. The Contracting Officer
683 and the Contractor shall enter into good faith negotiations to resolve any discrepancies or disputes
684 relating to accountings, reports, or information.

685 (k) The parties acknowledge and agree that the efficient administration of this
686 Contract is their mutual goal. Recognizing that experience has demonstrated that mechanisms,
687 policies, and procedures used for establishing Rates, Charges, and/or for making and allocating
688 payments, other than those set forth in this Article of this Contract, may be in the mutual best interest

689 of the parties, it is expressly agreed that the parties may enter into agreements to modify the
690 mechanisms, policies, and procedures for any of those purposes while this Contract is in effect
691 without amending this Contract.

692 (1) (1) Omitted.

693 (2) Omitted.

694 (3) Omitted.

695 (m) Rates under the respective ratesetting policies will be established to recover
696 only reimbursable O&M (including any deficits) costs of the Project, as those terms are used in the
697 then-existing Project ratesetting policies, and consistent with the SJRRSA, and interest, where
698 appropriate, except in instances where a minimum Rate is applicable in accordance with the relevant
699 Project ratesetting policy. Changes of significance in practices which implement the Contracting
700 Officer's ratesetting policies will not be implemented until the Contracting Officer has provided the
701 Contractor an opportunity to discuss the nature, need, and impact of the proposed change.

702 (n) Except as provided in subsections 3405(a)(1)(B) and 3405(f) of the CVPIA,
703 the Rates for Project Water transferred by the Contractor shall be the Contractor's Rates adjusted
704 upward or downward to reflect the changed costs of delivery (if any) incurred by the Contracting
705 Officer in the delivery of the transferred Project Water to the transferee's point of delivery in
706 accordance with the then-existing Central Valley Project Ratesetting Policy.

707 NON-INTEREST BEARING OPERATION AND MAINTENANCE DEFICITS

708 8. The Contractor and the Contracting Officer concur that, as of the effective date of this
709 Contract, the Contractor has no non-interest bearing operation and maintenance deficits and therefore

710 shall have no further liability.

711 RECOVERED WATER ACCOUNT

712 9. (a) Notwithstanding any other provisions of this Contract, water delivered to the
713 Contractor under its Recovered Water Account as provided at Paragraph 16(b) of the Settlement and
714 affirmed by Section 10004(a)(5) of the SJRRSA shall be at the total cost of \$10.00 per acre foot.
715 Recovered Water Account water provided to the Contractor shall be administered at a priority for
716 delivery lower than Class 2 Water and higher than Section 215 Water.

717 (b) The manner in which the Recovered Water Account will be administered will
718 be developed in accordance with subdivision (k) of Article 7 of this Contract, the SJRRSA, and
719 Paragraph 16 of the Settlement.

720 SALES, TRANSFERS, AND EXCHANGES OF WATER

721 10. (a) The right to receive Project Water provided for in this Contract may be sold,
722 transferred, or exchanged to others for reasonable and beneficial uses within the State of California if
723 such sale, transfer, or exchange is authorized by applicable Federal and State laws, and applicable
724 guidelines or regulations then in effect. No sale, transfer, or exchange of Project Water under this
725 Contract may take place without the prior written approval of the Contracting Officer, except as
726 provided for in subdivisions (b) and (c) of this Article of this Contract. No such Project Water sales,
727 transfers, or exchanges shall be approved, where approval is required, absent compliance with
728 appropriate environmental documentation including but not limited to the National Environmental
729 Policy Act and the Endangered Species Act. Such environmental documentation must include, as
730 appropriate, an analysis of groundwater impacts and economic and social effects, including

731 environmental justice, of the proposed Project Water sales, transfers and exchanges on both the
732 transferor/exchanger and transferee/exchange recipient.

733 (b) In order to facilitate efficient water management by means of Project Water
734 sales, transfers, or exchanges of the type historically carried out among Project Contractors located
735 within the same geographical area and to allow the Contractor to participate in an accelerated water
736 transfer program, the Contracting Officer has prepared, as appropriate, necessary environmental
737 documentation including, but not limited to, the National Environmental Policy Act and the
738 Endangered Species Act analyzing annual Project Water sales, transfers, or exchanges among
739 Contractors within the same geographical area and the Contracting Officer has determined that such
740 Project Water sales, transfers, and exchanges comply with applicable law.

741 (c) Project Water sales, transfers, and exchanges analyzed in the environmental
742 documentation referenced in subdivision (b) of this Article of this Contract, shall be conducted with
743 advance notice to the Contracting Officer and the Contracting Officer's written acknowledgement of
744 the transaction, but shall not require prior written approval by the Contracting Officer.

745 (d) For Project Water sales, transfers, or exchanges to qualify under subdivision
746 (b) of this Article of this Contract such Project Water sale, transfer, or exchange must: (i) be for
747 irrigation purposes for lands irrigated within the previous three (3) years, for municipal and industrial
748 use, groundwater recharge, groundwater banking, similar groundwater activities, surface water
749 storage, or fish and wildlife resources; not lead to land conversion; and be delivered to established
750 cropland, wildlife refuges, groundwater basins or municipal and industrial use; (ii) occur within a
751 single Year; (iii) occur between a willing seller and a willing buyer or willing exchangers; (iv)

752 convey water through existing facilities with no new construction or modifications to facilities and be
753 between existing Project Contractors and/or the Contractor and the United States, Department of the
754 Interior; and (v) comply with all applicable Federal, State, and local or tribal laws and requirements
755 imposed for protection of the environment and Indian Trust Assets, as defined under Federal law.

756 (e) The environmental documentation and the Contracting Officer's compliance
757 determination for transactions described in subdivision (b) of this Article of this Contract shall be
758 reviewed every five (5) years and updated, as necessary, prior to the expiration of the then-existing
759 five (5) year period. All subsequent environmental documentation shall include an alternative to
760 evaluate not less than the quantity of Project Water historically sold, transferred, or exchanged within
761 the same geographical area.

762 (f) Consistent with Section 10010(e)(1) of the SJRRSA, any agreement providing
763 for sale, transfer, or exchange of Project Water that is not used for interim flows or restoration flows
764 pursuant to Paragraphs 13 and 15 of the Settlement, shall be deemed to satisfy the requirements of
765 CVPIA section 3405(a)(1)(A) and (I); Provided, That such sales, transfers, or exchanges comply with
766 sub-division (f)(1) and (f)(2) below.

767 (1) Project Water sales, transfers, and exchanges conducted under the
768 provisions of subdivision (f) of this Article of this Contract shall not require the Contracting Officer's
769 concurrence as to compliance with CVPIA 3405(a)(1)(A) and (I); Provided, That the Contractor
770 shall, for Project Water sales, transfers, or exchanges, with a term greater than one (1) year, provide
771 ninety (90) days written advance notification to the Contracting Officer and similarly thirty (30) days

772 written advance notification of any Project Water sale, transfer, or exchange with a term of less than
773 one (1) year. The Contracting Officer shall promptly make such notice publicly available.

774 (2) The Contractor's thirty (30) days or ninety (90) days advance written
775 notification pursuant to subdivision (f)(1) of this Article of this Contract shall explain how the
776 proposed Project Water sales, transfers, or exchanges are intended to reduce, avoid, or mitigate
777 impacts to Project Water deliveries caused by interim or restoration flows or is otherwise intended to
778 facilitate the Water Management Goal as described in the SJRRSA. The Contracting Officer shall
779 promptly make such notice publicly available.

780 (3) In addition, the Contracting Officer shall, at least annually, make
781 available publicly a compilation of the number of Project Water sales, transfers, and exchange
782 agreements implemented in accordance with sub-divisions (f)(1) and (f)(2) of this Article of this
783 Contract.

784 (4) Project Water sold, transferred, or exchanged under an agreement that
785 meets the terms of subdivisions (f)(1) and (f)(2) of this Article of this Contract shall not be counted as
786 a replacement or an offset for purposes of determining reductions to Project Water deliveries to any
787 Friant Division Project Contractor except as provided in Paragraph 16(b) of the Settlement.

788 (g) Notwithstanding any Additional Capital Obligation that may later be
789 established, in the case of a sale or transfer of Irrigation Water to another contractor which is
790 otherwise subject to the acreage limitations, reporting, and Full Cost pricing provisions of the
791 Reclamation Reform Act of 1982, as amended, hereinafter referred to as the RRA, such sold or
792 transferred Irrigation Water shall not be subject to such RRA provisions, however, in the case of a

793 sale or transfer of Irrigation Water to the Contractor from another contractor which is subject to RRA
794 provisions, such RRA provisions shall apply to delivery of such water.

795 APPLICATION OF PAYMENTS AND ADJUSTMENTS

796 11. (a) The amount of any overpayment by the Contractor of the Contractor's O&M,
797 Capital, and deficit (if any) obligations for the Year shall be applied first to any current liabilities of
798 the Contractor arising out of this Contract then due and payable. Overpayments of more than One
799 Thousand Dollars (\$1,000) shall be refunded at the Contractor's request. In lieu of a refund, any
800 amount of such overpayment, at the option of the Contractor, may be credited against amounts to
801 become due to the United States by the Contractor. With respect to overpayment, such refund or
802 adjustment shall constitute the sole remedy of the Contractor or anyone having or claiming to have
803 the right to the use of any of the Project Water supply provided for herein. All credits and refunds of
804 overpayments shall be made within thirty (30) days of the Contracting Officer obtaining direction as
805 to how to credit or refund such overpayment in response to the notice to the Contractor that it has
806 finalized the accounts for the Year in which the overpayment was made.

807 (b) All advances for miscellaneous costs incurred for work requested by the
808 Contractor pursuant to Article 26 of this Contract shall be adjusted to reflect the actual costs when the
809 work has been completed. If the advances exceed the actual costs incurred, the difference will be
810 refunded to the Contractor. If the actual costs exceed the Contractor's advances, the Contractor will
811 be billed for the additional costs pursuant to Article 26 of this Contract.

833 within the Contractor's Service Area by the Contractor or those claiming by, through, or under the
834 Contractor. For purposes of this subdivision, groundwater recharge, groundwater banking and all
835 similar groundwater activities will be deemed to be underground storage.

836 CONSTRAINTS ON THE AVAILABILITY OF WATER

837 13. (a) In its operation of the Project, the Contracting Officer will use all reasonable
838 means to guard against a Condition of Shortage in the quantity of water to be made available to the
839 Contractor pursuant to this Contract. In the event the Contracting Officer determines that a Condition
840 of Shortage appears probable, the Contracting Officer will notify the Contractor of said determination
841 as soon as practicable.

842 (b) If there is a Condition of Shortage because of errors in physical operations of
843 the Project, drought, other physical causes beyond the control of the Contracting Officer or actions
844 taken by the Contracting Officer to meet legal obligations, including but not limited to obligations
845 pursuant to the Settlement then, except as provided in subdivision (a) of Article 19 of this Contract,
846 no liability shall accrue against the United States or any of its officers, agents, or employees for any
847 damage, direct or indirect, arising therefrom.

848 (c) The United States shall not execute contracts which together with this
849 Contract, shall in the aggregate provide for furnishing Class 1 Water in excess of 800,000 acre-feet
850 per Year or Class 2 Water in excess of 1,401,475 acre-feet per Year; Provided, That, subject to
851 subdivision (l) of Article 3 of this Contract, the limitation placed on Class 2 Water contracts shall not
852 prohibit the United States from entering into temporary contracts of one year or less in duration for
853 delivery of Project Water to other entities if such water is not necessary to meet the schedules as may

854 be submitted by all Friant Division Project Contractors entitled to receive Class 1 Water and/or Class
855 2 Water under their contracts. Nothing in this subdivision shall limit the Contracting Officer's ability
856 to take actions that result in the availability of new water supplies to be used for Project purposes and
857 allocating such new supplies; Provided, That the Contracting Officer shall not take such actions until
858 after consultation with the Friant Division Project Contractors.

859 (d) The Contracting Officer shall not deliver any Class 2 Water pursuant to this or
860 any other contract heretofore or hereafter entered into any Year unless and until the Contracting
861 Officer determines that the cumulative total quantity of Class 1 Water specified in subdivision (c) of
862 this Article of this Contract will be available for delivery in said Year. If the Contracting Officer
863 determines there is or will be a shortage in any Year in the quantity of Class 1 Water available for
864 delivery, the Contracting Officer shall apportion the available Class 1 Water among all Contractors
865 entitled to receive such water that will be made available at Friant Dam in accordance with the
866 following:

867 (1) A determination shall be made of the total quantity of Class 1 Water at
868 Friant Dam which is available for meeting Class 1 Water contractual commitments, the amount so
869 determined being herein referred to as the available supply.

870 (2) The total available Class 1 supply shall be divided by the Class 1 Water
871 contractual commitments, the quotient thus obtained being herein referred to as the Class 1
872 apportionment coefficient.

873 (3) The total quantity of Class 1 Water under Article 3 of this Contract
874 shall be multiplied by the Class 1 apportionment coefficient and the result shall be the quantity of

875 Class 1 Water required to be delivered by the Contracting Officer to the Contractor for the respective
876 Year, but in no event shall such amount exceed the total quantity of Class 1 Water specified in
877 subdivision (a) of Article 3 of this Contract.

878 (e) If the Contracting Officer determines there is less than the quantity of Class 2
879 Water which the Contractor otherwise would be entitled to receive pursuant to Article 3 of this
880 Contract, the quantity of Class 2 Water which shall be furnished to the Contractor by the Contracting
881 Officer will be determined in the manner set forth in paragraphs (1), (2), and (3), of subdivision (d) of
882 this Article of this Contract substituting the term "Class 2" for the term "Class 1."

883 (f) In the event that in any Year there is made available to the Contractor, by
884 reason of any shortage or apportionment as provided in subdivisions (a), (d), or (e) of this Article of
885 this Contract, or any discontinuance or reduction of service as set forth in subdivision (b) of Article
886 12 of this Contract, less than the quantity of water which the Contractor otherwise would be entitled
887 to receive hereunder, there shall be made an adjustment on account of the amounts already paid to the
888 Contracting Officer by the Contractor for Class 1 Water and Class 2 Water for said Year in
889 accordance with Article 11 of this Contract.

890 UNAVOIDABLE GROUNDWATER PERCOLATION

891 14. Omitted.

892 ACREAGE LIMITATION

893 15. (a) The Contractor has paid the Repayment Obligation, and notwithstanding any
894 Additional Capital Obligation that may later be established, the provisions of section 213(a) and (b)
895 of the RRA shall apply to lands in the Contractor's Service Area, with the effect that acreage

896 limitations, reporting, and Full Cost pricing provisions of the RRA shall no longer apply to lands in
897 the Contractor's Service Area with respect to Water Delivered pursuant to this Contract.
898 Reclamation will conduct a final water district review for the purpose of determining compliance
899 with the acreage limitations, reporting, and Full Cost pricing provisions of the RRA from the date of
900 the last water district review until the date when payment to Reclamation of the Repayment
901 Obligation was completed.

902 (b) Project Water to which the Contractor is entitled through a separate contract,
903 other than this Contract, that is subject to Federal Reclamation law, may be delivered to lands within
904 the Contractor's Service Area. Notwithstanding any Additional Capital Obligation that may later be
905 established, Project Water Delivered under this Contract may be mixed with Project Water Delivered
906 pursuant to a contract with the United States, other than this Contract, to which acreage limitations,
907 reporting, and Full Cost pricing provisions of Federal Reclamation law apply without causing the
908 application of the acreage limitations, reporting, and Full Cost pricing provisions of Federal
909 Reclamation law to the Water Delivered pursuant to this Contract; Provided, The terms and
910 conditions in such other contract shall continue to apply, and if such terms and conditions so require,
911 the lands to receive Project Water under such other contract shall be properly designated by the
912 Contractor and such Project Water is to be delivered in accordance with the RRA including any
913 applicable acreage limitations, reporting, and Full Cost pricing provisions.

914 COMPLIANCE WITH FEDERAL RECLAMATION LAWS

915 16. (a) The parties agree that the delivery of water or the use of Federal facilities
916 pursuant to this Contract is subject to Federal Reclamation law, as amended and supplemented, and
917 the rules and regulations promulgated by the Secretary of the Interior under Federal reclamation law.

918 (b) The terms of this Contract are subject to the Settlement and the SJRRSA.
919 Nothing in this Contract shall be interpreted to limit or interfere with the full implementation of the
920 Settlement and the SJRRSA.

921 PROTECTION OF WATER AND AIR QUALITY

922 17. (a) Project facilities used to make available and deliver water to the Contractor
923 shall be operated and maintained in the most practical manner to maintain the quality of the water at
924 the highest level possible as determined by the Contracting Officer: *Provided, That* the United States
925 does not warrant the quality of the water delivered to the Contractor and is under no obligation to
926 furnish or construct water treatment facilities to maintain or improve the quality of water delivered to
927 the Contractor.

928 (b) The Contractor shall comply with all applicable water and air pollution laws
929 and regulations of the United States and the State of California; and shall obtain all required permits
930 or licenses from the appropriate Federal, State, or local authorities necessary for the delivery of water
931 by the Contractor; and shall be responsible for compliance with all Federal, State, and local water
932 quality standards applicable to surface and subsurface drainage and/or discharges generated through
933 the use of Federal or Contractor facilities or project water provided by the Contractor within the
934 Contractor's Project Water Service Area.

935 (c) This article shall not affect or alter any legal obligations of the Secretary to
936 provide drainage or other discharge services.

937 WATER ACQUIRED BY THE CONTRACTOR
938 OTHER THAN FROM THE UNITED STATES

939 18. (a) Omitted.

940 (b) Notwithstanding any Additional Capital Obligation that may later be
941 established, water or water rights now owned or hereafter acquired by the Contractor other than from
942 the United States pursuant to this Contract and Irrigation Water furnished pursuant to the terms of
943 this Contract may be simultaneously transported through the same distribution facilities of the
944 Contractor without the payment of fees to the United States and without application of Federal

945 Reclamation law to Water Delivered pursuant to this Contract or to lands which receive Water
946 Delivered to Contractor pursuant to this Contract.

947 (c) Water or water rights now owned or hereafter acquired by the Contractor, other
948 than from the United States or adverse to the Project or its contractors (i.e., non-project water), may
949 be stored, conveyed and/or diverted through Project facilities, other than Friant Division Facilities,
950 subject to the completion of appropriate environmental documentation, with the approval of the
951 Contracting Officer and the execution of any contract determined by the Contracting Officer to be
952 necessary, consistent with the following provisions:

953 (1) The Contractor may introduce non-project water into Project facilities
954 and deliver said water to lands within the Contractor's Service Area subject to payment to the United
955 States and/or to any applicable Operating Non-Federal Entity of an appropriate rate as determined by
956 the Contracting Officer. In addition, if electrical power is required to pump non-project water, the
957 Contractor shall be responsible for obtaining the necessary power and paying the necessary charges
958 therefor.

959 (2) Delivery of such non-project water in and through Project facilities
960 shall only be allowed to the extent such deliveries do not: (i) interfere with other Project purposes as
961 determined by the Contracting Officer; (ii) reduce the quantity or quality of water available to other
962 Project Contractors; (iii) interfere with the delivery of contractual water entitlements to any other
963 Project Contractors; (iv) interfere with the physical maintenance of the Project facilities; or (v) result
964 in the United States incurring any liability or unreimbursed costs or expenses thereby.

986 opinion or determination of either party to this Contract, said terms shall not be construed as
987 permitting such action to be predicated upon arbitrary, capricious, or unreasonable opinions or
988 determinations. Both parties, notwithstanding any other provisions of this Contract, expressly reserve
989 the right to seek relief from and appropriate adjustment for any such arbitrary, capricious, or
990 unreasonable opinion or determination. Each opinion or determination by either party shall be
991 provided in a timely manner. Nothing in this Article of this Contract is intended to or shall affect or
992 alter the standard of judicial review applicable under Federal law to any opinion or determination
993 implementing a specific provision of Federal law embodied in statute or regulation.

994 (b) The Contracting Officer shall have the right to make determinations necessary
995 to administer this Contract that are consistent with the provisions of this Contract, the laws of the
996 United States and the State of California, and the rules and regulations promulgated by the Secretary.
997 Such determinations shall be made in consultation with the Contractor to the extent reasonably
998 practicable.

999 COORDINATION AND COOPERATION

1000 20. (a) In order to further their mutual goals and objectives, the Contracting Officer
1001 and the Contractor shall communicate, coordinate, and cooperate with each other, and with other
1002 affected Project Contractors, in order to improve the operation and management of the Project. The
1003 communication, coordination, and cooperation regarding operations and management shall include,
1004 but not limited to, any action which will or may materially affect the quantity or quality of Project
1005 Water supply, the allocation of Project Water supply, and Project financial matters including, but not
1006 limited to, budget issues. The communication, coordination, and cooperation provided for hereunder

1007 shall extend to all provisions of this Contract. Each party shall retain exclusive decision making
1008 authority for all actions, opinions, and determinations to be made by the respective party.

1009 (b) It is the intent of the Secretary to improve water supply reliability. To carry
1010 out this intent:

1011 (1) The Contracting Officer will, at the request of the Contractor, assist in
1012 the development of integrated resource management plans for the Contractor. Further, the
1013 Contracting Officer will, as appropriate, seek authorizations for implementation of partnerships to
1014 improve water supply, water quality, and reliability.

1015 (2) The Secretary will, as appropriate, pursue program and project
1016 implementation and authorization in coordination with Project Contractors to improve the water
1017 supply, water quality, and reliability of the Project for all Project purposes.

1018 (3) The Secretary will coordinate with Project Contractors and the State of
1019 California to seek improved water resource management.

1020 (4) The Secretary will coordinate actions of agencies within the
1021 Department of the Interior that may impact the availability of water for Project purposes.

1022 (5) The Contracting Officer shall periodically, but not less than annually,
1023 hold division level meetings to discuss Project operations, division level water management
1024 activities, and other issues as appropriate.

1025 (c) Without limiting the contractual obligations of the Contracting Officer
1026 hereunder, nothing in this Contract shall be construed to limit or constrain the Contracting Officer's
1027 ability to communicate, coordinate, and cooperate with the Contractor or other interested

1028 stakeholders or to make decisions in a timely fashion as needed to protect health, safety, physical
1029 integrity of structures or facilities, or the Contracting Officer's ability to comply with applicable
1030 laws.

1031 CHARGES FOR DELINQUENT PAYMENTS

1032 21. (a) The Contractor shall be subject to interest, administrative and penalty charges
1033 on delinquent installments or payments. When a payment is not received by the due date, the
1034 Contractor shall pay an interest charge for each day the payment is delinquent beyond the due date.
1035 When a payment becomes sixty (60) days delinquent, the Contractor shall pay an administrative
1036 charge to cover additional costs of billing and processing the delinquent payment. When a payment
1037 is delinquent ninety (90) days or more, the Contractor shall pay an additional penalty charge of six
1038 (6%) percent per year for each day the payment is delinquent beyond the due date. Further, the
1039 Contractor shall pay any fees incurred for debt collection services associated with a delinquent
1040 payment.

1041 (b) The interest charge rate shall be the greater of the rate prescribed quarterly in
1042 the Federal Register by the Department of the Treasury for application to overdue payments, or the
1043 interest rate of one-half of one (0.5%) percent per month prescribed by Section 6 of the Reclamation
1044 Project Act of 1939 (Public Law 76-260). The interest charge rate shall be determined as of the due
1045 date and remain fixed for the duration of the delinquent period.

1046 (c) When a partial payment on a delinquent account is received, the amount
1047 received shall be applied, first to the penalty, second to the administrative charges, third to the
1048 accrued interest, and finally to the overdue payment.

1049 EQUAL EMPLOYMENT OPPORTUNITY

1050 22. During the performance of this Contract, the Contractor agrees as follows:

1051 (a) The Contractor will not discriminate against any employee or applicant for
1052 employment because of race, color, religion, sex, disability, or national origin. The Contractor will
1053 take affirmative action to ensure that applicants are employed, and that employees are treated during
1054 employment, without regard to their race, color, religion, sex, disability, or national origin. Such
1055 action shall include, but not be limited to the following: employment, upgrading, demotion, or
1056 transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of
1057 compensation; and selection for training, including apprenticeship. The Contractor agrees to post in
1058 conspicuous places, available to employees and applicants for employment, notices to be provided by
1059 the Contracting Officer setting forth the provisions of this nondiscrimination clause.

1060 (b) The Contractor will, in all solicitations or advertisements for employees placed by
1061 or on behalf of the Contractor, state that all qualified applicants will receive consideration for
1062 employment without regard to race, color, religion, sex, disability, or national origin.

1063 (c) The Contractor will send to each labor union or representative of workers with
1064 which it has a collective bargaining agreement or other contract or understanding, a notice, to be
1065 provided by the Contracting Officer, advising the labor union or workers' representative of the
1066 Contractor's commitments under Section 202 of Executive Order 11246 of September 24, 1965, and
1067 shall post copies of the notice in conspicuous places available to employees and applicants for
1068 employment.

1069 (d) The Contractor will comply with all provisions of Executive Order No. 11246 of
1070 September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

1071 (e) The Contractor will furnish all information and reports required by Executive
1072 Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of
1073 Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the
1074 Contracting Agency and the Secretary of Labor for purposes of investigation to ascertain compliance
1075 with such rules, regulations, and orders.

1076 (f) In the event of the Contractor's noncompliance with the nondiscrimination clauses
1077 of this contract or with any of such rules, regulations, or orders, this contract may be canceled,
1078 terminated or suspended in whole or in part and the Contractor may be declared ineligible for further
1079 Government contracts in accordance with procedures authorized in Executive Order 11246 of
1080 September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in
1081 Executive Order 11246 of September 24, 1965 or by rule, regulation, or order of the Secretary of
1082 Labor, or as otherwise provided by law.

1083 (g) The Contractor will include the provisions of paragraphs (1) through (7) in every
1084 subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of
1085 Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such
1086 provisions will be binding upon each subcontractor or vendor. The Contractor will take such action
1087 with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a
1088 means of enforcing such provisions, including sanctions for noncompliance: *Provided, however*, that
1089 in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor
1090 or vendor as a result of such direction, the Contractor may request the United States to enter into such
1091 litigation to protect the interests of the United States.

1092 GENERAL OBLIGATION--BENEFITS CONDITIONED UPON PAYMENT

1093 23. (a) The obligation of the Contractor to pay the United States as provided in this
1094 Contract is a general obligation of the Contractor notwithstanding the manner in which the obligation

1095 may be distributed among the Contractor's water users and notwithstanding the default of individual
1096 water users in their obligations to the Contractor.

1097 (b) The payment of charges becoming due hereunder is a condition precedent to
1098 receiving benefits under this Contract. The United States shall not make water available to the
1099 Contractor through Project facilities during any period in which the Contractor may be in arrears in
1100 the advance payment of water rates due the United States. The Contractor shall not furnish water
1101 made available pursuant to this Contract for lands or parties which are in arrears in the advance
1102 payment of water rates levied or established by the Contractor.

1103 (c) With respect to subdivision (b) of this Article of this Contract, the Contractor
1104 shall have no obligation to require advance payment for water rates which it levies.

1105 COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

1106 24. (a) The Contractor shall comply with Title VI of the Civil Rights Act of 1964 (42
1107 U.S.C. 2000d), Section 504 of the Rehabilitation Act of 1975 (P.L. 93-112, as amended), the Age
1108 Discrimination Act of 1975 (42 U.S.C. 6101, et seq.) and any other applicable civil rights laws, as
1109 well as with their respective implementing regulations and guidelines imposed by the U.S.
1110 Department of the Interior and/or Bureau of Reclamation.

1111 (b) These statutes require that no person in the United States shall, on the grounds
1112 of race, color, national origin, handicap, or age, be excluded from participation in, be denied the
1113 benefits of, or be otherwise subjected to discrimination under any program or activity receiving
1114 financial assistance from the Bureau of Reclamation. By executing this Contract, the Contractor
1115 agrees to immediately take any measures necessary to implement this obligation, including permitting
1116 officials of the United States to inspect premises, programs, and documents.

1117 (c) The Contractor makes this agreement in consideration of and for the purpose
1118 of obtaining any and all Federal grants, loans, contracts, property discounts, or other Federal financial
1119 assistance extended after the date hereof to the Contractor by the Bureau of Reclamation, including
1120 installment payments after such date on account of arrangements for Federal financial assistance
1121 which were approved before such date. The Contractor recognizes and agrees that such Federal
1122 assistance will be extended in reliance on the representations and agreements made in this Article,
1123 and that the United States reserves the right to seek judicial enforcement thereof.

1124 PRIVACY ACT COMPLIANCE

1125 25. Omitted.

CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

1126 26. In addition to all other payments to be made by the Contractor pursuant to this
1127 Contract, the Contractor shall pay to the United States, within sixty (60) days after receipt of a bill
1128 and detailed statement submitted by the Contracting Officer to the Contractor for such specific items
1129 of direct cost incurred by the United States for work requested by the Contractor associated with this
1130 Contract plus indirect costs in accordance with applicable Bureau of Reclamation policies and
1131 procedures. All such amounts referred to in this Article of this Contract shall not exceed the amount
1132 agreed to in writing in advance by the Contractor. This Article of this Contract shall not apply to
1133 costs for routine contract administration.

WATER CONSERVATION

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1135 27. (a) Prior to the delivery of water provided from or conveyed through Federally
1136 constructed or Federally financed facilities pursuant to this Contract, the Contractor shall be
1137 implementing an effective water conservation and efficiency program based on the Contractor's water
1138 conservation plan that has been determined by the Contracting Officer to meet the conservation and
1139 efficiency criteria for evaluating water conservation plans established under Federal law. The water
1140 conservation and efficiency program shall contain definite water conservation objectives, appropriate
1141 economically feasible water conservation measures, and time schedules for meeting those objectives.
1142 Continued Project Water delivery pursuant to this Contract shall be contingent upon the Contractor's
1143 continued implementation of such water conservation program. In the event the Contractor's water
1144 conservation plan or any revised water conservation plan completed pursuant to subdivision (d) of
1145 this Article of this Contract have not yet been determined by the Contracting Officer to meet such

1146 criteria, due to circumstances which the Contracting Officer determines are beyond the control of the
1147 Contractor, water deliveries shall be made under this Contract so long as the Contractor diligently
1148 works with the Contracting Officer to obtain such determination at the earliest practicable date, and
1149 thereafter the Contractor immediately begins implementing its water conservation and efficiency
1150 program in accordance with the time schedules therein.

1151 (b) Omitted.

1152 (c) The Contractor shall submit to the Contracting Officer a report on the status of
1153 its implementation of the water conservation plan on the reporting dates specified in the then-existing
1154 conservation and efficiency criteria established under Federal law.

1155 (d) At five (5) -year intervals, the Contractor shall revise its water conservation
1156 plan to reflect the then-existing conservation and efficiency criteria for evaluating water conservation
1157 plans established under Federal law and submit such revised water management plan to the
1158 Contracting Officer for review and evaluation. The Contracting Officer will then determine if the
1159 water conservation plan meets Reclamation's then-existing conservation and efficiency criteria for
1160 evaluating water conservation plans established under Federal law.

1161 (e) If the Contractor is engaged in direct groundwater recharge, such activity shall
1162 be described in the Contractor's water conservation plan.

1163 EXISTING OR ACQUIRED WATER OR WATER RIGHTS

1164 28. Except as specifically provided in Article 18 of this Contract, the provisions of this
1165 Contract shall not be applicable to or affect non-project water or water rights now owned or hereafter
1166 acquired by the Contractor or any user of such water within the Contractor's Service Area. Any such

1167 water shall not be considered Project Water under this Contract. In addition, this Contract shall not
1168 be construed as limiting or curtailing any rights which the Contractor or any water user within the
1169 Contractor's Service Area acquires or has available under any other contract pursuant to Federal
1170 Reclamation law.

1171 OPERATION AND MAINTENANCE BY OPERATING NON-FEDERAL ENTITY

1172 29. (a) The O&M of a portion of the Project facilities which serve the Contractor, and
1173 responsibility for funding a portion of the costs of such O& M, have been transferred to the Operating
1174 Non-Federal Entity by separate agreement between the United States and the Operating Non-Federal
1175 Entity. That separate agreement shall not interfere with or affect the rights or obligations of the
1176 Contractor or the United States hereunder.

1177 (b) The Contracting Officer has previously notified the Contractor in writing that
1178 the O&M of a portion of the Project facilities which serve the Contractor has been transferred to the
1179 Operating Non-Federal Entity, and therefore, the Contractor shall pay directly to the Operating Non-
1180 Federal Entity, or to any successor approved by the Contracting Officer under the terms and
1181 conditions of the separate agreement between the United States and the Operating Non-Federal Entity
1182 described in subdivision (a) of this Article of this Contract, all rates, charges or assessments of any
1183 kind, including any assessment for reserve funds, which the Operating Non-Federal Entity or such
1184 successor determines, sets or establishes for (i) the O&M of the portion of the Project facilities
1185 operated and maintained by the Operating Non-Federal Entity or such successor, or (ii) the Friant
1186 Division's share of the operation, maintenance and replacement costs for physical works and
1187 appurtenances associated with the Tracy Pumping Plant, the Delta-Mendota Canal, the O'Neill

1188 Pumping/Generating Plant, the federal share of the O'Neill Forebay, the Mendota Pool, and the
1189 federal share of San Luis Unit joint use conveyance and conveyance pumping facilities. Such direct
1190 payments to the Operating Non-Federal Entity or such successor shall not relieve the Contractor of its
1191 obligation to pay directly to the United States the Contractor's share of the Project Rates and
1192 Charges, except to the extent the Operating Non-Federal Entity collects payments on behalf of the
1193 United States in accordance with the separate agreement identified in subdivision (a) of this Article of
1194 this Contract.

1195 (c) For so long as the O&M of any portion of the Project facilities serving the
1196 Contractor is performed by the Operating Non-Federal Entity, or any successor thereto, the
1197 Contracting Officer shall adjust those components of the Rates for Water Delivered under this
1198 Contract representing the cost associated with the activity being performed by the Operating Non-
1199 Federal Entity or its successor.

1200 (d) In the event the O&M of the Project facilities operated and maintained by the
1201 Operating Non-Federal Entity is re-assumed by the United States during the term of this Contract, the
1202 Contracting Officer shall so notify the Contractor, in writing, and present to the Contractor a revised
1203 Exhibit "B" which shall include the portion of the Rates to be paid by the Contractor for Project
1204 Water under this Contract representing the O &M costs of the portion of such Project facilities which
1205 have been re-assumed. The Contractor shall, thereafter, in the absence of written notification from
1206 the Contracting Officer to the contrary, pay the Rates and Charges specified in the revised Exhibit
1207 "B" directly to the United States in compliance with Article 7 of this Contract.

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CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

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30. The expenditure or advance of any money or the performance of any obligation of the United States under this Contract shall be contingent upon appropriation or allotment of funds.

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Absence of appropriation or allotment of funds shall not relieve the Contractor from any obligations under this Contract. No liability shall accrue to the United States in case funds are not appropriated or allotted.

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BOOKS, RECORDS, AND REPORTS

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31. (a) The Contractor shall establish and maintain accounts and other books and records pertaining to administration of the terms and conditions of this Contract, including: the Contractor's financial transactions, water supply data, and Project land and right-of-way agreements; the water users' land-use (crop census), land ownership, land-leasing and water use data; and other matters that the Contracting Officer may require. Reports thereon shall be furnished to the Contracting Officer in such form and on such date or dates as the Contracting Officer may require. Subject to applicable Federal laws and regulations, each party to this Contract shall have the right during office hours to examine and make copies of the other party's books and records relating to matters covered by this Contract.

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(b) Notwithstanding the provisions of subdivision (a) of this Article of this

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Contract, no books, records, or other information shall be requested from the Contractor by the

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Contracting Officer unless such books, records, or information are reasonably related to the

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administration or performance of this Contract. Any such request shall allow the Contractor a

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reasonable period of time within which to provide the requested books, records, or information.

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(c) At such time as the Contractor provides information to the Contracting Officer

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pursuant to subdivision (a) of this Article of this Contract, a copy of such information shall be

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provided to the Operating Non-Federal Entity.

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ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED

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32. (a) The provisions of this Contract shall apply to and bind the successors and assigns of the parties hereto, but no assignment or transfer of this Contract or any right or interest therein shall be valid until approved in writing by the Contracting Officer.

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1236 (b) The assignment of any right or interest in this Contract by either party shall not
1237 interfere with the rights or obligations of the other party to this Contract absent the written
1238 concurrence of said other party.

1239 (c) The Contracting Officer shall not unreasonably condition or withhold approval
1240 of any proposed assignment.

1241 SEVERABILITY

1242 33. In the event that a person or entity who is neither (i) a party to a Project contract, nor
1243 (ii) a person or entity that receives Project Water from a party to a Project contract, nor (iii) an
1244 association or other form of organization whose primary function is to represent parties to Project
1245 contracts, brings an action in a court of competent jurisdiction challenging the legality or
1246 enforceability of a provision included in this Contract and said person, entity, association, or
1247 organization obtains a final court decision holding that such provision is legally invalid or
1248 unenforceable and the Contractor has not intervened in that lawsuit in support of the plaintiff(s), the
1249 parties to this Contract shall use their best efforts to (i) within thirty (30) days of the date of such final
1250 court decision identify by mutual agreement the provisions in this Contract which must be revised
1251 and (ii) within three (3) months thereafter promptly agree on the appropriate revision(s). The time
1252 periods specified above may be extended by mutual agreement of the parties. Pending the
1253 completion of the actions designated above, to the extent it can do so without violating any applicable
1254 provisions of law, the United States shall continue to make the quantities of Project Water specified
1255 in this Contract available to the Contractor pursuant to the provisions of this Contract which were not
1256 found to be legally invalid or unenforceable in the final court decision.

1257 RESOLUTION OF DISPUTES

1258 34. Should any dispute arise concerning any provisions of this Contract, or the parties'
1259 rights and obligations thereunder, the parties shall meet and confer in an attempt to resolve the
1260 dispute. Prior to the Contractor commencing any legal action, or the Contracting Officer referring
1261 any matter to Department of Justice, the party shall provide to the other party thirty (30) days written
1262 notice of the intent to take such action; Provided, That such notice shall not be required where a delay
1263 in commencing an action would prejudice the interests of the party that intends to file suit. During
1264 the thirty (30) day notice period, the Contractor and the Contracting Officer shall meet and confer in
1265 an attempt to resolve the dispute. Except as specifically provided, nothing herein is intended to
1266 waive or abridge any right or remedy that the Contractor or the United States may have.

1267 OFFICIALS NOT TO BENEFIT

1268 35. No Member of or Delegate to Congress, Resident Commissioner, or official of the
1269 Contractor shall benefit from this Contract other than as a water user or landowner in the same
1270 manner as other water users or landowners.

1271 CHANGES IN CONTRACTOR'S SERVICE AREA

1272 36. (a) While this Contract is in effect, no change may be made in the Contractor's
1273 Service Area or boundaries, by inclusion or exclusion of lands, dissolution, consolidation, merger, or
1274 otherwise, except upon the Contracting Officer's written consent.

1275 (b) Within thirty (30) days of receipt of a request for such a change, the
1276 Contracting Officer will notify the Contractor of any additional information required by the
1277 Contracting Officer for processing said request, and both parties will meet to establish a mutually
1278 agreeable schedule for timely completion of the process. Such process will analyze whether the
1279 proposed change is likely to: (i) result in the use of Project Water contrary to the terms of this

1280 Contract; (ii) impair the ability of the Contractor to pay for Project Water furnished under this
1281 Contract or to pay for any Federally-constructed facilities for which the Contractor is responsible;
1282 and (iii) have an impact on any Project Water rights applications, permits, or licenses. In addition,
1283 the Contracting Officer shall comply with the National Environmental Policy Act and the Endangered
1284 Species Act. The Contractor will be responsible for all costs incurred by the Contracting Officer in
1285 this process, and such costs will be paid in accordance with Article 26 of this Contract.

1286 FEDERAL LAWS

1287 37. By entering into this Contract, the Contractor does not waive its rights to contest the
1288 validity or application in connection with the performance of the terms and conditions of this
1289 Contract of any Federal law or regulation; Provided, That the Contractor agrees to comply with the
1290 terms and conditions of this Contract unless and until relief from application of such Federal law or
1291 regulation to the implementing provision of the Contract is granted by a court of competent
1292 jurisdiction.

1293 EMERGENCY RESERVE FUND

1294 38. The Contractor and Contracting Officer acknowledge that the requirements to
1295 establish and maintain a minimum reserve fund account to finance extraordinary O&M costs of
1296 Friant Division Facilities is and will continue to be administered under Contract No. 8-07-20-X0356
1297 titled Agreement To Transfer The Operation, Maintenance And Replacement And Certain Financial
1298 And Administrative Activities Related To The Friant-Kern Canal And Associated Works, dated
1299 March 1, 1998 as amended, supplemented, assigned, or renewed.

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1301 MEDIUM FOR TRANSMITTING PAYMENT

1302 39. (a) All payments from the Contractor to the United States under this contract
1303 shall be by the medium requested by the United States on or before the date payment is due. The
1304 required method of payment may include checks, wire transfers, or other types of payment specified
1305 by the United States.

1306 (b) Upon execution of the contract, the Contractor shall furnish the Contracting
1307 Officer with the Contractor's taxpayer's identification number (TIN). The purpose for requiring the
1308 Contractor's TIN is for collecting and reporting any delinquent amounts arising out of the
1309 Contractor's relationship with the United States.

1310 NOTICES

1311 40. Any notice, demand, or request authorized or required by this Contract shall be
1312 deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or delivered
1313 to the Area Manager, South-Central California Area Office, 1243 "N" Street, Fresno, California
1314 93721, and on behalf of the United States, when mailed, postage prepaid, or delivered to the Board of
1315 Directors of Porterville Irrigation District, 22086 Avenue 160, Porterville, California 93257. The
1316 designation of the addressee or the address may be changed by notice given in the same manner as
1317 provided in this Article of this Contract for other notices.

1318 CONFIRMATION OF CONTRACT

1319 41. The Contractor, after the execution of this Contract, shall promptly provide to the
1320 Contracting Officer a decree of a court of competent jurisdiction of the State of California,
1321 confirming the execution of this Contract. The Contractor shall furnish the United States a certified
1322 copy of the final decree, the validation proceedings, and all pertinent supporting records of the court
1323 approving and confirming this Contract, and decreeing and adjudging it to be lawful, valid, and
1324 binding on the Contractor.

1325 CONTRACT DRAFTING CONSIDERATIONS

1326 42. Articles 1 through 15, subdivision (c) of Article 16, Articles 18 through 20,
1327 subdivision (c) of Article 23, Articles 26 through 29, subdivisions (b) and (c) of Article 31,
1328 subdivisions (b) and (c) of Article 32, Articles 33 through 34, subdivision (b) of Article 36, and
1329 Articles 37 through 38 of this Contract have been drafted, negotiated, and reviewed by the parties
1330 hereto, each of whom is sophisticated in the matters to which this Contract pertains, and no one party
1331 shall be considered to have drafted the stated Articles.
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1333 IN WITNESS WHEREOF, the parties hereto have executed this Contract as of the day and
1334 year first above written.